

CITY OF CLEWISTON
Regular Commission Meeting
June 19, 2017

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, June 19, 2017. The meeting was called to order at 5:00 p.m. by Mayor Gardner. The audience recited the Lord's Prayer and Ella Gerald and Mark McLaughlin led the audience in reciting 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, Community Development Director Travis Reese, Public Works Director Sean Scheffler, Utilities Director Danny Williams, Recreation Director Lance Ramer, Police Chief Aaron Angell, Code Enforcement Officer Debbie McNeil, Sergeant Nicholas Williams, Sergeant Matt Beatty, Police Officer Darrin McNeil, Animal Control Officer Tony Rushing, Loretta Melanson and City Engineer Scott Jones. City Attorney Gary Brandenburg attended via telephone.

Visitors Present: Gloria Rosen, Don Gutshall, David Angell, Erica Hernandez, Christine Howell, Hillary Hyslope, Pablo Llossas, Asa and Betty Godsey, Jennifer Black, Donnie Hughes, Stephanie Busin, Andy Tilton, Terry Gardner, Raoul Bataller, Jerry Cochrane, Leslie Fuse, Dr. Kevin Van and Antonio Perez

Aaron Angell was sworn in as Chief of Police for the Clewiston Police Department by Mayor Gardner.

ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA – City Manager Perry stated that Agenda Items 4, 5, 6 and 11 will be pulled from the agenda and approval of the design of the new Police Department plans will be added as Agenda Item 12A.

1. Consent Agenda

- A. *Commission Workshop Regarding Commerce Park Industrial District Minutes – May 11, 2017*
- B. *Commission Workshop Minutes – May 11, 2017*
- C. *Commission Meeting Minutes – May 15, 2017*
- D. *Special Commission Meeting Minutes – May 30, 2017*

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

SECURIAN PENSION PLAN UPDATE – Gloria Rosen addressed the Commission and presented an update on the City's Pension Plan with Securian for the period of October 1, 2016 through March 31, 2017. She also reviewed the balance of investment as of June 15, 2017.

PUBLIC HEARINGS

- 2. Public Hearing - Ordinance No. 2017-10 – Final Reading** - Ordinance No. 2017-10 amends the Commerce Park Industrial District (CPID), Sections 110-493 through 110-502 of the Clewiston Code of Ordinances.

Mayor Gardner summarized and read Ordinance No. 2017-10 by title. She stated that official notice of the public hearing was advertised accordingly and opened the public hearing to accept input from any interested parties. As there were no comments or questions, Mayor Gardner closed the public hearing.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve Ordinance No. 2017-10 on final reading and authorize the Mayor to sign. Vote 5 yeas, 0 nays

3. **Public Hearing - Ordinance No. 2017-11 – Final Reading** - Ordinance No. 2017-11 amends Article V, Chapter 110, Section 110-524, entitled “Fences, Walls and Hedges”.

Mayor Gardner summarized and read Ordinance No. 2017-11 by title. She stated that official notice of the public hearing was advertised accordingly and opened the public hearing to accept input from any interested parties. As there were no comments or questions, Mayor Gardner closed the public hearing.

Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to approve Ordinance No. 2017-11 on final reading and authorize the Mayor to sign. Vote 5 yeas, 0 nays

ORDINANCES

4. **Deleted - Ordinance No. 2017-12 – First Reading** – Ordinance No. 2017-12 creates Division 14, “**Merchant Square Commercial District Zoning Regulations**” of Article V, “Districts and District Regulations”, of Chapter 110 of the City Code of Ordinances.
5. **Deleted - Ordinance No. 2017-13 – First Reading** – Ordinance No. 2017-13 creates Division 15, “**US27 Corridor District Zoning Regulations**” of Article V, “Districts and District Regulations”, of Chapter 110 of the City Code of Ordinances.
6. **Deleted - Ordinance No. 2017-14 – First Reading** – Ordinance No. 2017-14 creates Division 16, “**Ventura Overlay District Zoning Regulations**” of Article V, “Districts and District Regulations”, of Chapter 110 of the City Code of Ordinances.
7. **Ordinance No. 2017-15 – First Reading** – Ordinance No. 2017-15 authorizes the operation of golf carts on some City streets, provides restrictions on modified golf carts and neighborhood electric vehicles and provides for minimum required equipment, additional restrictions and golf cart registration enforcement.

Mayor Gardner read Ordinance No. 2017-15 by title. City Manager Perry stated the purpose for this ordinance is to legalize golf carts on some streets within the city limits. He also presented Florida Attorney General Advisory Legal Opinion Number AGO 2016-07 provided by City Attorney Brandenburg. Attorney Brandenburg said the opinion states that seatbelts on golf carts are not necessary, a City’s ordinance cannot limit golf cart operators to only licensed drivers and the City can only impose additional restrictive operations safety gear requirements for unlicensed drivers. He also stated the statute allows 14 year olds to drive golf carts and if golf carts are allowed on streets, 14 year olds are allowed to drive them on streets. Commissioner Roland expressed that he does not agree with the Attorney General’s opinion.

Police Chief Angell addressed the Commission and stated that even though the opinion states that the statute limits a City’s ordinance from imposing more restrictive operation and safety requirements on golf carts to unlicensed drivers, the language in Chapter 316.212(7), Florida Statutes, states that no one under the age of 14 can operate a golf cart on public roads or streets. Mayor Gardner feels there are some things that need to be addressed. Attorney Brandenburg stated the opinion states that the Legislature has clearly authorized unlicensed drivers to operate golf carts on the highways of the State of Florida when they are operated pursuant to section 316.212, thereby precluding a municipality from enacting an ordinance prohibiting the operation of golf carts by an unlicensed driver. Chief Angell expressed that he feels there is confusion as to whether a person with a suspended license is also considered as an unlicensed driver. Attorney Brandenburg expressed that he feels a person with a suspended license is considered an unlicensed driver. Commissioner Roland did not agree. Mayor Gardner stated that since the additional information has been provided, she feels this ordinance should be reviewed before approving the first reading.

Mr. Jerry Cochrane addressed the Commission and expressed that he is not in favor of this ordinance. He feels that all golf carts operated on City streets should have a license tag, windshield, windshield wipers, lights and turn signals.

Mr. Pablo Llossas addressed the Commission and said he has a copy of a Flagler Beach ordinance that states that no person shall drive a golf cart on city streets unless that person has a valid driver's license.

Mr. Asa Godsey addressed the Commission and said he is not in favor of this ordinance. He feels a lot of research should be done before the ordinance is approved.

Commissioner Petersen expressed that she feels this matter should be tabled to a time certain of 60 days so that there is adequate time to research the matter. Attorney Brandenburg confirmed the public hearing at the next meeting could be tabled to a time certain if the Commission feels at that time they still have not had enough time to review the matter.

Commissioner Petersen noted that Commissioner Roland's suggestion that golf carts not be allowed on some additional streets should be added to the ordinance. Mayor Gardner also noted that Commissioner Rodriguez' suggestion that golf carts not be allowed to be used for commercial purposes should also be added to the ordinance.

Commissioner Roland made a motion, seconded by Commissioner Rodriguez, to approve Ordinance No. 2017-15 on first reading, make the necessary changes and set the public hearing for July 17, 2017. Vote 5 yeas, 0 nays

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

8. **Consideration to waive or reduce the monthly rent at the Senior Citizens' Building -** Matt Hudson, Vice President of Hope Healthcare, requests the City waive or reduce the monthly rent at the Senior Citizens' Building to assist Hope Connection's efforts to administer the U.S.D.A. Commodity Supplemental Food Program (CSFP).

City Manager Perry stated the City pays the utilities and provides cleaning supplies for the Senior Citizens' Building each month. He stated the costs are equal to the monthly rent charged. Commissioner Rodriguez stated that he could not support the request at this time and would reconsider the matter once Mr. Hudson provides more information. Mayor Gardner stated that Mr. Hudson, at the June 15, 2017 City Commission Workshop, stated that June 22, 2017 is the date for open enrollment of the U.S.D.A. Commodity Supplemental Food Program (CSFP) and the first distribution would be on July 18, 2017. She stated there were currently 315 people participating in the program but Mr. Hudson could not provide how many participants were City residents at that time. Commissioner Petersen said she would be in favor of tabling this matter. She stated the First United Methodist Church through the Harry Chapin Food Bank currently services a lot of the senior citizens and said that she would like to know if there will be a transfer or how the two programs will work. Mayor Gardner asked City Manager Perry to determine who the participants of the CSFP are, the relationship between the CSFP and the other food distribution centers and have this item back on the agenda next month.

Commissioner Rodriguez made a motion, seconded by Commissioner Petersen, to have this matter back on the agenda next month. Vote 5 yeas, 0 nays

9. **Approval of Change Order and Final Payment for the 2017 West Boat Basin Parking Overlay Project** – Scott Jones with Johnson-Prewitt & Associates, Inc. has acknowledged this project is complete and satisfactory, including a change order to overlay an additional 1200 square yards and pave pipe trenching from underground electric work on the east boat basin parking area which totals \$14,331, with a total contract price with the change order of \$33,234 and recommends issuing final payment in the amount of \$33,234 to Weekley Asphalt Paving, Inc.

Mayor Gardner stated the recommended motion has been revised to approve the change order and the final payment to Weekley Asphalt Paving, Inc. in the total amount of \$29,223.00. The paving of the pipe trenching from the underground electric work on the east boat basin parking area will be a separate project. City Engineer Scott Jones confirmed that all requirements for this project were met.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve the change order and final payment in the amount of \$29,223.00 to Weekley Asphalt Paving, Inc. for the 2017 West Boat Basin Parking Overlay Project. Vote 5 yeas, 0 nays

- 10. Approval of Final Payment for the 2017 Road Reconstruction Project** – Scott Jones with Johnson-Prewitt & Associates, Inc. has acknowledged this project is complete and satisfactory and recommends issuing final payment in the amount of \$43,663.50 to Community Asphalt Corp.

Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez to approve final payment in the amount of \$43,663.50 to Community Asphalt Corp. for the 2017 Road Reconstruction Project. Vote 5 yeas, 0 nays

- 11. Deleted - Award of Block 201 Utility Relocation Project Bid** – The City advertised for bids for the Block 201 Utility Relocation Project on May 11, 2017. The bids will be/were opened on June 15, 2017. City Engineers Tommy Perry and/or Scott Jones with Johnson-Prewitt & Associates, Inc. will have a recommendation.
- 12. Discussion regarding funding from the John B. Boy/US Sugar Youth Recreation Fund administered by Hendry County** – At the May 25, 2017 Hendry-Clewiston Recreation Board Meeting, the Board approved the funding for FY2017 in the amount of \$17,500 be allocated equally between Hendry County and the City of Clewiston, giving the governing board of both entities the decision making authority for the use of their 50% share (\$8,750) of the funding in accordance with the Restricted Gift Agreement.

City Manager Perry stated that Recreation Director Lance Ramer wants to include the pontoon boat excursion for the participants in the City of Clewiston's Recreation Summer Camp. Mayor Gardner also suggested that City staff review if any of the funds could be used for new playground equipment. Commissioner Roland stated that he would like City Manager Perry to find out what the funds can be used for exactly. Mayor Gardner asked City Manager Perry to verify if the funds could be used for capital improvements.

Commissioner Rodriguez made a motion, seconded by Commissioner Petersen, to accept the restricted gift in the amount of \$8,750 according to the Restricted Gift Agreement. Vote 5 yeas, 0 nays

- 12A. Approval of Design of new Police Department Plans** – City Manager Perry stated that staff feels the new building will suit the needs of the Police Department. The square footage of the building has been reduced from 10,000 to 6,400. Chief Angell reviewed the changes that were made with the Commission. He stated the site for the building is the same, the second story was cut out and the inside of the building was condensed. Commissioner Rodriguez expressed that he feels the building is still a little too big. He noted that furniture will also be needed. He stated that he will not approve any bids over \$1.4 million. City Engineer Scott Jones reviewed a timeline of the project with the Commission. He said the bid for the project will be advertised on June 29, 2017 and the bids will be opened on August 1, 2017. He also stated that ten days will be needed to move from the old building to the new building once the Certificate of Occupancy is issued. He further stated that July 1, 2017 is the date the term of the grant begins and it is estimated the building will be complete in April of 2018. He also agreed to provide the bid documents to Attorney Brandenburg to review.

Dr. Kevin Van addressed the Commission and expressed his concern that there may not be enough time to make modifications if bids come in high. He stated that he feels the City may not meet the budget based on his experience with the construction on his building.

Commissioner Rodriguez stated that he wishes the Commission would have been included in the meeting when it was determined how big the building should be. Mayor Gardner stated the meetings were open and she does not know if the building could be any smaller and still effectively serve as a police department.

Vice Mayor Atkinson made a motion, seconded by Commissioner Roland, to put the building plans to bid. Vote 5 yeas, 0 nays

Before the vote, Commissioner Petersen asked if documents had to be re-submitted for the grant funds for the re-appropriation and if documents were modified to include the option to purchase a building that was already built. Chief Angell said the agreement would be an entirely new contract and the language included the option to purchase already existing construction. Commissioner Petersen asked if the City should consider that option as an alternate plan if they were in the range of \$1.4 million. City Manager Perry said the option to purchase existing construction would be difficult. Chief Angell stated that he thinks the cost to purchase existing construction is in the range of \$1.4 million but he is not sure there would be enough time and he has an attachment to this project.

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

PUBLIC COMMENTS – Mr. Jerry Cochrane addressed the Commission and suggested the City consider issuing a bond if there is a shortfall for the new Police Department building. He next expressed his concern that he has not yet heard the results of the title search of Francisco Street that the Commission previously approved. Mayor Gardner explained that the matter has not been forgotten and staff has been searching for someone to do the title search. The cost for the search is very high and staff is trying to find the best remedy. Mr. Cochrane next questioned why the park on Pinewood in the Ridgewood Subdivision still has not been cleaned up. He would like something to be done. Mr. Cochrane then stated his last concern was a zoning issue at the corner of US27 and Circle Drive. He stated the property is zoned General Commercial and there are people living in the back of the building. He stated that he expects the City to set an example and the zoning should be enforced. Mayor Gardner asked Attorney Brandenburg to review this matter. She also asked Attorney Brandenburg to make a recommendation regarding the Francisco Street ownership and the overgrown park on Pinewood. Commissioner Roland stated that he would like City Manager Perry to contact Hendry County to see if they disagree with the City regarding the ownership of North Francisco Street. He also suggested that the Florida Department of Transportation may be able to provide some information.

Mr. Leslie Fuse stated that he does window tinting and has been a vendor with the City. He expressed his concern that his business was not considered or given the opportunity to tint the windows of the Police Department cars. He stated the vendor who did the window tinting was from Immokalee. Mayor Gardner asked Mr. Fuse to provide his telephone number to City Manager Perry so that he could be contacted to explain what had happened.

COMMENTS FROM CITY MANAGER – City Manager Perry stated the Food Truck Invasion has been cancelled tonight due to the rain.

COMMENTS FROM THE CITY ATTORNEY- none

COMMENTS FROM THE CITY COMMISSION – Commissioner Roland stated that there is a lot in the industrial area on the south side of town with concrete piled up. Code Enforcement Officer Debbie McNeil stated that it is now in the current code to mandate a fence or wall or not. Mayor Gardner stated that she would like a recommendation from Attorney Brandenburg on this matter and asked Code Enforcement Officer McNeil to review the matter with City Manager Perry so that he can discuss it with Attorney Brandenburg. Commissioner Roland stated that he feels it is the Commission's decision. Code Enforcement Officer McNeil agreed. Mayor Gardner asked Attorney Brandenburg to provide a recommendation and if this matter should be considered by the Commission, it should be included on the next month's agenda.

Commissioner Roland stated that he wanted to get approval of the Commission to talk about his concern of over-spraying on the lake. He stated that he feels the spraying should stop. If other cities and counties don't agree, there would not be enough pressure on the Florida Wildlife Commission to stop. He suggested that all cities and counties adopt a resolution regarding this matter. It was the general consensus of the Commission that they were in favor of Commissioner Roland discussing this matter and requested him to provide updates.

Commissioner Rodriguez stated that he feels mowing contractors should not park on the streets. He asked that the Police Officers stop and ask them to move over. Mayor Gardner suggested that copies of the ordinance be mailed out to the contractors. Public Works

Director Sean Scheffler expressed his concern with parking on the shoulder of the roads because of the wet ground. Commissioner Roland suggested a letter be sent asking them to park in the driveway of the yards they are mowing. Mayor Gardner asked City Manager Perry to send a letter with a copy of the ordinance to the mowing contractors asking them to park in the driveways during the rainy weather.

Commissioner Rodriguez next asked if a golf course consultant had been found. City Manager Perry stated that staff is still looking at this time and confirmed the Golf Course is in good shape.

Vice Mayor Atkinson stated he talked to Hendry County Administrator Charles Chapman about going live on meetings and County Administrator Chapman agreed to split the cost to provide that service. He expressed that he feels this is something the City needs to do for accountability. Mayor Gardner asked City Manager Perry to get with County Administrator Chapman to discuss the cost for this service and come back to the Commission with the information.

Vice Mayor Atkinson also said that he would like to keep the basketball courts where they are currently located.

Commissioner Roland made a motion, seconded by Vice Mayor Atkinson, to leave the full court basketball court set up with two baskets at its current place and take down the tennis net next to it so that tennis and basketball are not next to each other. Vote 2 yeas, 3 nays (Mayor Gardner, Commissioner Petersen and Commissioner Rodriguez voted nay)

Before the vote, Mayor Gardner stated that she feels this is a mistake. She stated there is grant funding for lighted basketball courts at Trinidad Park. She does not feel basketball, tennis and pickle ball are compatible. She also stated the basketball players have continually trashed the courts and the police officers have been called to that location because of fighting.

Mayor Gardner stated that Hendry County made a decision to close their offices on Monday, July 3, 2017 in addition to Tuesday, July 4, 2017 and asked the Commission if they would like to follow their decision and allow the City employees to have a four day weekend. It was the general consensus of the Commission that the City offices would remain open on Monday, July 3, 2017.

Mayor Gardner asked Attorney Brandenburg to review the matter regarding medical marijuana and its impact on the community. Attorney Brandenburg stated he will be prepared to discuss this matter at the next meeting.

Mayor Gardner stated there was a small meeting with FEMA, it is hopeful there will be new maps in July and as soon as updated information is received, City Manager Perry and the City Engineer will advise the Commission about the preliminary maps and what those maps will look like with the changes to flood insurance in the City of Clewiston. She stated there should be more information from FEMA next week in regards to the flood maps.

ADJOURNMENT

The meeting was adjourned at 6:40 p.m.

Mali Gardner, Mayor

Mary K. Combass, Interim City Clerk