

CITY OF CLEWISTON
Regular Commission Meeting
July 17, 2017

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, July 17, 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, Commissioner Kristine Petersen and Commissioner Julio Rodriguez. Vice Mayor Michael Atkinson attended via telephone and Commissioner Phillip Roland was absent.

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 Aaron Angell, Code Enforcement Officer Debbie McNeil, Compliance Manager Lynne Mila, City Engineers Tommy Perry and Scott Jones and City Attorney Gary Brandenburg.

Visitors Present: Pablo Llossas, Jerry Cochrane, Asa and Betty Godsey, Jason and Lori Williams, Laura Smith, Hillary Hyslope, Matt Hudson, Chris Felker, Raoul Bataller, Pepe Lopez, Tabitha Yebba, Haitham Kaki, Tish Swangler, Christine Howell, Antonio Perez, Pedro Diaz, Jennifer Black and Andy Tilton.

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

1. Consent Agenda

- A. *Commission Workshop Regarding Zoning Regulations for the US27 Corridor District and Ventura Overlay District Minutes – June 15, 2017*
- B. *Commission Workshop Minutes – June 15, 2017*
- C. *Commission Meeting Minutes – June 19, 2017*

Commissioner Rodriguez made a motion, seconded by Commissioner Petersen, to approve the Consent Agenda. Vote 4 yeas, 0 nays

PUBLIC HEARINGS

- 2. Public Hearing - Ordinance No. 2017-15 – Final 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 summarized and read Ordinance No. 2017-15 by title. She stated that official notice of the public hearing was advertised accordingly and opened the public hearing. Mr. Jerry Cochrane expressed that he feels approval of this ordinance is a disaster waiting to happen. Commissioner Rodriguez stated the City's previous policy was to not allow golf carts in the City because there were children under the age of 16 years driving golf carts. City Manager Perry confirmed a valid driver's license would now be required to operate a golf cart. Commissioner Rodriguez expressed that his concern is how this matter will be monitored. He asked what is the parents' liability if a child under the age of 16 years is caught driving a golf cart. Mayor Gardner stated that the Commission can always make changes to the ordinance if they feel it is needed. She also stated that she feels the City is small enough to be a golf cart community and there are many residents who are in favor of approval of the ordinance. Police Chief Aaron Angell explained to the Commission that the golf carts will be registered and inspected to make sure they are safe. He stated that at the time the carts are registered, the owner will be informed of the rules and safety information. He also confirmed that any golf cart operator can be ticketed in the same manner as if they were operating a motor vehicle. Commissioner Rodriguez stated that he feels the City is not a golf cart community and that he will not support this ordinance. Mr. Raoul Bataller addressed the Commission and expressed that he feels the City should have good strong

warnings regarding golf carts crossing Highway 27. As there were no further comments, Mayor Gardner declared the public hearing closed.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve Ordinance No. 2017-15 and authorize the Mayor to sign. Vote 3 yeas, 1 nay (Commissioner Rodriguez voted nay)

RESOLUTION

3. **Resolution No. 2017-06** – Upon approval of Ordinance No. 2017-15 on final reading, Resolution No. 2017-06 will be presented for approval. Resolution No. 2017-06 designates and approves certain City streets as streets authorized for golf cart use.

Mayor Gardner read Resolution No. 2017-06 by title and recited the list of City streets that are not authorized for the use of golf carts.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve Resolution No. 2017-06 and authorize the Mayor to sign. Vote 3 yeas, 1 nay (Commissioner Rodriguez voted nay)

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

4. **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).

Matt Hudson addressed the Commission stating that, as requested by the Commission at the June 15, 2017 City Commission Workshop, he now has the specifics as to the City residents affected by the program which is shown on the spreadsheet distributed to the Commission. He reviewed the services the program provides and noted that people are still currently enrolling in the program. He stated that in lieu of Hope Connection administering this program, because this is a federally mandated program, the City would be responsible for providing the service. He stated he has received an extension from the USDA to reach the 90% capacity so that the program would not be lost and that this program probably does overlap with other food programs because it is specific to low income seniors. Recreation Director Lance Ramer stated that City staff cleans the common areas twice each week but Hope takes care of the majority of the cleaning. He also stated that the \$500 monthly payment covers the cost of the electricity. Mr. Hudson noted that Hope uses only 1/3 of the building. Mr. Hudson explained Hope's responsibilities at the locations in LaBelle, Moore Haven and Buckhead Ridge. Commissioner Rodriguez said he feels this is a great program but his concerns include the county resident participation, the high executive salaries received, and the City's budget. He does not feel the City is in a position to give anything away at this time and stated that he could not support this request at this time. Mr. Hudson next stated that Hendry County will be contributing approximately \$34,000 annually for their portion of unincorporated Hendry County because they realize they could not administer the program themselves for \$34,000. He then reviewed the services that Hope Connections provides. Mayor Gardner proposed that the City waive the \$500/month but require Hope Connections to pay the utilities for that building.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to waive the monthly rent in the amount of \$500/month and require Hope Connections pay the monthly utilities and for the City Manager to work with Mr. Hudson to come up with a difference so that some of the costs are covered. Vote 3 yeas, 1 nay (Commissioner Rodriguez voted nay)

5. **Award of 2017 US27/Sugarland Highway Beautification Project Bid** – The City advertised for bids for the 2017 US27/Sugarland Highway Beautification Project on May 4, 2017 and June 15, 2017. The only bid received was opened on June 29, 2017. City Engineers Tommy Perry and/or Scott Jones with Johnson-Prewitt & Associates, Inc. will have a recommendation.

City Engineer Tommy Perry addressed the Commission and stated that one bid was received in a timely manner and was greater than the amount budgeted for this project. He stated the bidder has suggested changing the trees to sabal palms and eliminating the irrigation system and agreed to reduce his bid to \$89,290. Mayor Gardner stated that her concern is that the bid was advertised as one project and is now being renegotiated as a different project and suggested the bid go out again in the best interest of the City. City Attorney Brandenburg recommended the project go out to bid for 30 days. City Engineer Perry stated that Johnson-Prewitt & Associates, Inc. did not prepare the plans for this project but he feels the cost is in line; the cost for the irrigation and royal palms made the difference. Vice Mayor Atkinson expressed his concern regarding the maintenance of the trees. City Manager Perry stated the Sabal Palms will need to be trimmed once each year and the current cost is approximately \$20 per tree and it would be the City's responsibility to maintain the trees. Compliance Manager Lynne Mila addressed the Commission and explained the grant portion of this project started in 2015 and a budget had to be put together at that time. She stated they estimated 120 royal palms at \$36,000 and the cost today is \$1,000 per tree. She also stated that she looked up the landscape references and communicated with a DOT consultant who has worked with the landscaper for this project. The DOT consultant gave rave reviews for this contractor. She further stated that the sabal palms are \$450 to \$500 per tree which is what was quoted for the renegotiated cost. She expressed that she feels it would not be more efficient to go back out for bid on this project. She added that even though DOT previously approved of the new plan, she received an email from the grant coordinator today asking for something in writing from DOT agreeing to the deviation from the original plan so the City is not ready to enter into a contract with the contractor at this time. Commissioner Rodriguez stated that he does not want to prolong the project, but he feels it is best to re-bid the project with the current specs.

Commissioner Rodriguez made a motion, seconded by Commissioner Petersen, to reject the only bid on the 2017 US27/Sugarland Highway Beautification Project and re-bid the project with the current specs. Vote 4 yeas, 0 nays

- 6. Approval of Documents to be sent to the Hendry County Property Appraiser by August 4, 2017** - The Commission should approve the DR-420/Certification of Taxable Value, which sets the proposed millage rate and tentative budget hearing, DR-420TIF/Tax Increment Adjustment Worksheet, and DR-420MM-P/Maximum Millage Calculation-Preliminary Disclosure before August 4, 2017 for transmittal to the Hendry County Property Appraiser.

Mayor Gardner expressed that she is not in favor of raising the millage and would like to keep the current millage rate as the budget is reviewed. Commissioner Petersen expressed that she feels raising the millage rate should be considered because of concerns with infrastructure, salaries and other matters. Vice Mayor Atkinson agreed and stated the extra cushion is needed as the budget is reviewed. Commissioner Rodriguez said he knows that buildings need to be painted and infrastructure needs to be replaced but there is no new revenue. He next stated that he will not support raising the millage rate and will vote to keep it at the same rate it is at this time. Commissioner Petersen stated that lift stations need to be fixed, the Library roof is leaking, law enforcement officers and other employees are leaving. She stated the City needs competitive wages and she is committed to taking care of the citizens. Mayor Gardner said she feels we need to continue to look for grants and feels the City can be more efficient. City Manager Perry said Commissioner Roland, who is unable to be here or on the phone, recommends a $\frac{3}{4}$ to 1 mill increase. City Manager Perry also stated that he has never been in favor of raising taxes, but it is hard to field the phone calls that he receives about the floor and bathrooms at the John Boy Auditorium, the leaking Library roof and other issues and does not know how to repair those things with the current budget. Mr. Jerry Cochrane addressed the Commission and urged them to vote with Commissioner Petersen and Vice Mayor Atkinson. He stated the City has some real needs at this time.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve the proposed documents for transmittal to the Hendry County Property Appraiser's Office using the millage rate of 7.0314 and set the tentative budget hearing for September 14, 2017 at 5:05 p.m. in the Clewiston Commission Chambers, 115 West Ventura Avenue, Clewiston, FL 33440. Vote 2 yeas, 2 nays (Mayor Gardner and Commissioner Rodriguez voted nay)

City Attorney Brandenburg said the Commission should try to reach an agreement. Commissioner Petersen said she is not willing to agree to a ½ mill increase. Commissioner Rodriguez stated the increase is not going to do everything that is needed. He feels we need to attract more people to Clewiston. He stated that he would entertain a ½ mill increase.

Commissioner Rodriguez made a motion to approve the proposed documents for transmittal to the Hendry County Property Appraiser's Office using the millage rate of 6.5314 and set the tentative budget hearing for September 14, 2017 at 5:05 p.m. in the Clewiston Commission Chambers, 115 West Ventura Avenue, Clewiston, FL 33440. Motion failed for lack of a second.

Vice Mayor Atkinson stated that eventually something has to be done to get ahead.

Vice Mayor Atkinson made a motion, seconded by Commissioner Petersen, to approve the proposed documents for transmittal to the Hendry County Property Appraiser's Office using the millage rate of 7.0314 and set the tentative budget hearing for September 14, 2017 at 5:05 p.m. in the Clewiston Commission Chambers, 115 West Ventura Avenue, Clewiston, FL 33440. Vote 2 yeas, 2 nays (Mayor Gardner and Commissioner Rodriguez voted nay)

Mayor Gardner explained that she is being conservative because she has seen how quickly the Commission can approve spending money that has come in on items that she did not feel was in the best interest of the City. She stated that she would be willing to give ½ of a mill and asked if there was another motion. After no motions were made, City Manager Perry suggested the Commission meet in the middle at 6.7814.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve the proposed documents for transmittal to the Hendry County Property Appraiser's Office using the millage rate of 6.7814 and set the tentative budget hearing for September 14, 2017 at 5:05 p.m. in the Clewiston Commission Chambers, 115 West Ventura Avenue, Clewiston, FL 33440. Vote 3 yeas, 1 nay (Commissioner Rodriguez voted nay)

7. **Discussion regarding the Moratorium on the Sale of Medical Marijuana and the Adoption of Senate Bill 8-A, 3rd Engrossed** – The City of Clewiston City Commission adopted Ordinance No. 2016-10 on January 23, 2017 establishing a temporary moratorium on marijuana dispensaries/medical treatment centers for a period of six (6) months. With the adoption of Senate Bill 8-A, 3rd Engrossed, City Attorney Gary Brandenburg agreed to review this matter and discuss its impact on the community with the Clewiston City Commission.

City Attorney Brandenburg explained that Senate Bill 8-A allows municipalities to ban medical marijuana treatment centers and dispensary facilities entirely and if they are not banned, municipalities must allow them to be established at any place where pharmacies are established and at no more stringent requirements than what would be placed on a pharmacy. He recommended the City ban the medical marijuana treatment centers and dispensary facilities within the City limits at this time. He stated it could be changed should things occur in the future. Ms. Tish Swangler addressed the Commission and stated that she has a family member that would immensely benefit if the City allowed the establishment of the treatment centers and dispensaries. She also stated that she believes the City could prohibit any one under the age of 18 from entering the dispensary. Mayor Gardner stated the dispensaries will be very highly regulated but there is no limit to how many can be in town. She expressed that she feels there is a purpose for the medical marijuana but it has to be a purpose that does not create havoc in the community. City Attorney Brandenburg agreed to draft the ordinance for first reading at the next meeting.

8. **Discussion regarding approval of an Amnesty Period for Waiving Penalties on Property Improvement Liens (Sewer and Street Paving)** – Mayor Gardner

Mayor Gardner said she is hoping the Commission will consider an amnesty period through December 31, 2017.

Commissioner Rodriguez made a motion, seconded by Commissioner Petersen to approve an amnesty period for waiving penalties on property improvement liens (sewer and street paving) through December 31, 2017. Vote 4 yeas, 0 nays

9. Discussion regarding Code Violation Liens – Code Enforcement Officer Debbie McNeil and City Attorney Gary Brandenburg

Mayor Gardner stated she requested that Code Enforcement Officer Debbie McNeil and City Attorney Gary Brandenburg discuss this matter because there are many ongoing code enforcement liens. Code Enforcement Officer McNeil stated that she has seen other cities do a similar amnesty period for code enforcement liens as the amnesty period to waive the penalties on property improvement liens that was just approved by the Commission. City Attorney Brandenburg expressed that he feels the amnesty program is a good idea. He explained other options including establishing an assessment program, obtaining a judgment to seize any personal property and foreclosure. Mayor Gardner expressed that she feels the City should begin the foreclosure process on the non-homestead properties. Attorney Brandenburg said a title search could be done to determine if there is a prior mortgage on the property. Commissioner Petersen expressed that she feels the City should offer an amnesty period. Commissioner Rodriguez agreed. Mayor Gardner stated she feels the Commission should consider the Code Enforcement amnesty at the August 21, 2017 Commission Meeting. She also thanked Code Enforcement Officer Debbie McNeil for the work she does.

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

PUBLIC COMMENTS – Attorney Antonio Perez addressed the Commission and stated that he had distributed pictures of unpermitted mobile homes that are not in compliance. He stated a lien does not make the owner fix the problem. He feels the foreclosure process or collection process actually forces them to fix the problem. Code Enforcement Officer Debbie McNeil presented pictures to the Commission and explained why violations were not issued. She stated that because of the record keeping, there is no way to determine if permits were issued on these structures. City Attorney Brandenburg stated that you can't determine if the structure is built to code if the building permit is not available because you don't know when the structure was built. Code Enforcement Officer McNeil suggested the Building Board be used to make the determination. Mr. Perez stated the structures are not built to any code for living. Attorney Brandenburg stated that if the Building Official will state they are hazardous as a result of the poor construction or maintenance issues, then the City can require them to be taken down. Mayor Gardner asked City Manager Perry to ask the Building Official to put it in writing. She also stated that she would like the Building Official to look at the vacant buildings and make a determination on whether they are inhabitable.

Mr. Jerry Cochrane addressed the Commission and stated there has been tree trimming in his neighborhood by people who are not licensed and insured and left the trimmings for the City to pick up. Public Works Director Sean Scheffler stated that those operations are not permitted. He also stated that some residents agree to pay the City to pick up the load. He further stated that if large piles are found by the road, pictures are taken and the property owner is charged \$75 per load.

Ms. Laura Smith addressed the Commission and expressed her concern regarding the requirement for driveway aprons. Mayor Gardner explained an ordinance was adopted several years ago that required landowners to pave their unpaved driveway aprons by February 1, 2018. She also stated that she is not willing to continue to see the unpaved aprons and the businesses who have unpaved parking areas. Mayor Gardner requested the ordinance regarding the requirement for driveway aprons be discussed at the August 21, 2017 Commission Meeting.

Ms. Smith next expressed her concern regarding homes that have been subdivided. Mayor Gardner asked Ms. Smith to provide the information to Code Enforcement Officer Debbie McNeil.

COMMENTS FROM CITY MANAGER - none

COMMENTS FROM THE CITY ATTORNEY - none

COMMENTS FROM THE CITY COMMISSION – Mayor Gardner stated there was a previous discussion regarding the alleyways and roadways that were not being used by the City. She also stated that she feels the City should consider selling the property if it is not going to be used. She further stated that she would like Attorney Brandenburg to review this matter and would get the information to City Manager Perry.

Mayor Gardner also expressed her concern regarding the commercial parking lots that are not paved and would like to discuss this matter at the August 21, 2017 Commission Meeting. Code Enforcement Officer Debbie McNeil said there is one business that she feels could maintain a non-conforming status.

Mayor Gardner stated that she reviewed Johnson-Prewitt's agreement from 1977 and would like the City Manager, City Engineer and the City Attorney to review the agreement so that we are clear on responsibilities. She requested this matter be included on the August 17, 2017 Commission Meeting Agenda.

Mr. Raoul Bataller addressed the Commission and asked if there was an estimate of the size of the alleyways and roadways that are not being used by the City and how much revenue would come from selling the land. Mayor Gardner stated there is a lot of land that is not being used and she hopes it will be a good revenue source.

ADJOURNMENT

The meeting was adjourned at 7:00 p.m.

Mali Gardner, Mayor

Mary K. Combass, Interim City Clerk