

CITY OF CLEWISTON
Regular Commission Meeting
December 3, 2018

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, December 3, 2018. The meeting was called to order at 5:30 p.m. by Mayor Gardner. Pastor Chuck Pelham of the Clewiston Ministerial Association gave the invocation and the audience joined in reciting the Pledge of Allegiance.

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

Personnel Present: Interim City Clerk Kathy Combass, Finance Director Shari Howell, Utilities Director Danny Williams, Assistant Police Chief Marci VanD’Huynslager, Public Works Director Sean Scheffler, Community Development Director Travis Reese, Library Director Natasha Hayes, Compliance Manager Lynne Mila, Code Enforcement Officer Debbie McNeil, City Engineer Scott Jones and City Attorney Gary Brandenburg.

Visitors Present: Laura Smith, Asa and Betty Godsey, Lance Ramer, Christine Howell, Phillip Roland, Antonio Perez, Donnie Hughes, Terry Gardner, Jerry Cochrane, Raoul Bataller, Andy Tilton, Vic McCorvey, Michael Stevens, Mike Pittman, Jimmy Pittman, Matt Musgrave, Pepe Lopez and Pedro Diaz.

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

Reorganization of City Commission - Designation of Mayor and Vice Mayor by City Commission per the City Charter which states “During the first regular meeting in December of each general election year, the City Commission shall hold an organization meeting, and from their number appoint by majority vote, the Mayor and Vice Mayor”.

Vice Mayor Atkinson made a motion to appoint Commissioner Petersen as Mayor, motion failed for lack of a second.

Commissioner McGahee made a motion, seconded by Commissioner Rodriguez, to appoint Commissioner Gardner as Mayor. Vote 5 yeas, 0 nays

Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to appoint Commissioner Atkinson as Vice Mayor. Vote 5 yeas, 0 nays

Appointment/Re-appointment of Commissioners to the Southwest Florida Regional Planning Council (SWFRPC), Hendry County Tourist Development Council (TDC), Hendry County Industrial Development Authority (IDA), Board of Building Commissioners and as an alternate to the Florida Municipal Power Agency Board (FMPA), Florida Municipal Electric Association (FMEA) and the 16 County Coalition.

The Commission discussed the various boards and expressed what board on which they wished to serve. Vice Mayor Atkinson expressed that he would like to continue serving on the SWFRPC and also serve on the IDA; Commissioner McGahee agreed to serve on the TDC and the Board of Building Commissioners; Commissioner Petersen expressed that she would like to continue serving as an alternate to the FMPA Board and the FMEA; and Mayor Gardner expressed that she would like to serve as an alternate to the 16 County Coalition.

Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to approve and accept that Vice Mayor Atkinson will continue to serve on the SWFRPC and also serve on the IDA; Commissioner McGahee will serve on the TDC and the Board of Building Commissioners; Commissioner Petersen

will continue to serve as an alternate to the FMPA Board and the FMEA and Mayor Gardner will serve as an alternate to the 16 County Coalition. Vote 5 yeas, 0 nays

Appointment of Interim City Manager – City Attorney Gary Brandenburg

City Attorney Brandenburg explained that due to the resignation of Mr. Perry, he recommends the City have a discussion regarding who should be appointed as the interim City Manager with City Manager authority. He also recommended that Mr. Perry, as of this evening, only act as a consultant and no longer have authority as the City Manager to sign off on bank accounts or to act on behalf of the City. Mayor Gardner stated she had contacted the Florida League of Cities and received information regarding the City Manager hiring process and noted the Commission needed to decide who would be the point of contact for the City during the transition. She stated that Finance Director Shari Howell has the knowledge and experience to be the contact between the Directors, the liaison with Mr. Perry and the gatekeeper to keep things going. She also asked City Clerk Combass to forward the email that was received from the Florida League of Cities regarding the hiring process to the Commission.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to appoint Finance Director Shari Howell as the Interim City Manager with the caveat that we will utilize the resources available. Vote 5 yeas, 0 nays

Before the vote, Commissioner McGahee agreed that Director Howell is a great point of contact for the City; however she expressed her concern regarding the amount of time without leadership. She stated that she feels that Director Howell should be appointed until a City Manager is hired or until Mr. Perry's last day which is December 17 or until another interim City Manager is hired. She agreed that Mr. Perry's authority should be limited to an advisory or consulting capacity. She then informed the Commission that Wendell Johnson responded favorably when he was asked if he would be willing to serve as the Interim City Manager. She asked the Commission to consider Mr. Johnson as the Interim City Manager for the City and expressed that she feels Mr. Johnson could also help with the hiring of the new City Manager. She also expressed that she feels there should be community participation in the hiring of the new City Manager and stated that business owners in the community and US Sugar are interested in serving on a committee to give input to the Commission. She stated that she would like each Commissioner to recommend and appoint someone to the committee and let the committee along with the Interim City Manager bring suggestions to the Commission and filter through the resumes. She suggested the name from each Commissioner be given to City Clerk Combass to forward to Attorney Brandenburg. Mayor Gardner noted the Florida League of Cities has a list of City Managers that are in transition. She expressed that she feels Commissioner McGahee's recommendation has merit but feels each Commissioner should have the opportunity to meet with Mr. Johnson before a final decision is made.

After the vote, Commissioner Rodriguez stated that he is in favor of hiring Mr. Johnson as the Interim City Manager and of forming a committee to help with the process of hiring a new City Manager.

Commissioner McGahee made a motion, seconded by Commissioner Petersen, to limit the City Manager's authority in making decisions to serving in the capacity of advice and consultation. Vote 5 yeas, 0 nays

Commissioner McGahee made a motion, seconded by Commissioner Rodriguez, to establish a recruitment committee whereby each Commissioner would appoint one person to the committee and designate that person to the City Clerk by Wednesday and the committee will then have an initial meeting. Vote 5 yeas, 0 nays

Attorney Brandenburg explained that the two ways to hire a City Manager are to advertise widely, have the committee look over the resumes and prepare a short list for interviews or to hire a recruitment firm to go out and find a candidate. He asked if the Commission was prepared to make the decision now or do they want to give the committee the authority to make that decision. Mayor Gardner noted that according to the Florida League of Cities, the minimum cost for a recruitment firm is \$15,000 - \$20,000. Commissioner Rodriguez expressed that he is not in

favor of hiring a recruitment firm. Attorney Brandenburg explained that if you advertise, you will receive responses from people who are looking to leave their job and in order to lure someone from a job they love and a job where they are doing well, a recruitment firm is needed. Attorney Brandenburg added that he feels the recruitment committee would not be able to find that person without a recruiting firm. Commissioner McGahee stated she feels the committee should look at everything and come back to the Commission with their recommendation on whether or not a recruitment firm should be used.

Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to form a committee for the City Manager search. Vote 5 yeas, 0 nays

Regarding the hiring of an Interim City Manager, Mayor Gardner stated that she wants to make sure that each Commissioner has a chance to talk to Mr. Johnson. City Attorney Brandenburg stated the City Clerk could schedule the meetings with Mr. Johnson for each Commissioner and then the contract could be discussed at the next meeting.

Vice Mayor Atkinson made a motion, seconded by Commissioner Petersen, for the City Clerk to schedule meetings with Mr. Johnson for each Commissioner. Vote 5 yeas, 0 nays

City Attorney Brandenburg clarified that the committee will come back to the Commission with a recommendation on how to proceed in getting applicants for the City Manager position. Vice Mayor Atkinson expressed that he feels we should advertise for the position and then when the committee is formed, they can review the applicants and if they feel it is not going to work, they could suggest another method. Attorney Brandenburg stated the committee will be established by people appointed individually by each Commissioner and those appointments are going to be given to the City Clerk and the committee will be able to meet before the next meeting. He added that a recommendation from the committee is needed on advertising at the next meeting. Vice Mayor Atkinson expressed that he would be in favor if the committee will have a recommendation by the next meeting, if not, he would like to go ahead and advertise for the position. Commissioner McGahee stated she feels a good job description is needed for the advertisement and expressed that she feels we also need to know how and where to advertise.

RESOLUTION

- 1. Resolution No. 2018-52** – Resolution No. 2018-52 authorizes the Mayor to sign the As-Is Contract for Sale and Purchase Between City of Clewiston and Polaroma, LLC for the sale of the property located at 603 Commerce Court, Clewiston, FL, known as Lot 6 of Clewiston Commerce Park.

Mayor Gardner summarized and read Resolution No. 2018-52 by title. City Attorney Brandenburg explained that he had prepared a rough draft of the contract that was sent to the City and was somehow sent to the purchaser. He stated that Finance Director Shari Howell received a deposit from the purchaser and was asked if periodic payments could be made. He further stated that he advised Director Howell that we should not accept any more money until a signed contract is received. He added that the signed contract was received without the company name of the purchaser and the square footage amount of the building. He suggested the Commission discuss tonight what they would be willing to do regarding the sale of Lot 6. He noted the purchaser has offered \$73,181 and a deposit of \$7,318 had been received. He also noted that he believes City Manager Perry had a conversation with the purchaser that, because of the low sale price, there would be a penalty if a certain size building within a certain period of time was not built. He indicated the size of the building on the contract has been left blank and the penalty amount was \$150,000. He then stated that Lot 6 is approximately 1.7 acres, 392 feet x 152 feet which is 66,507 square feet and Director Howell has indicated the overall cost including the grant monies is \$70,000 per acre but when you subtract the grant monies, the cost to the City is about \$48,545 per acre. He then recommended, if the Commission would like to consider selling this lot for \$73,181, the City be granted a right of first refusal within the first five years of the sale instead of the penalty provision to prevent the purchaser from flipping the property to someone else and suggested that we put that in writing and ask the purchaser to re-sign the contract. Vice Mayor Atkinson expressed that he feels the time frame for the right of first refusal should be two to three years. Commissioner Rodriguez stated that he met with and talked to the purchaser

several times and explained that their product is the fragrance for cologne and perfume. He also stated that he has seen the model of the building that the purchaser wants to build and it is very nice. He further stated that he feels the purchaser should come to a commission meeting and explain his plans to the Commission. Commissioner McGahee expressed that she is not comfortable with the right of first refusal and prefers the penalty provision. Mayor Gardner asked if there is a square footage requirement for the building and Community Development Director Travis Reese stated that he was not sure and would need to review the ordinance. City Attorney Brandenburg stated that he could reach out to the Buyer to reach an agreement and invite their representative to be present at the next meeting. Finance Director Howell stated that she will provide the Buyer's information to Attorney Brandenburg.

Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to table this item to the next meeting. Vote 5 yeas, 0 nays

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

2. Discussion regarding 2019 Commission Meeting/Workshop Schedule

The Commission discussed possible meeting dates for the second meeting and workshop in January. Commissioner Rodriguez expressed that he likes workshops and suggested that workshops be scheduled at 4:00 p.m. or 4:30 p.m. prior to the regular meetings once or twice each month. Commissioner McGahee agreed. The Commission agreed that a workshop would be scheduled for 4:30 p.m. before the January 7, 2019 Commission Meeting and the date for the second Commission Meeting in January would be January 14, 2019. The Commission also agreed that a workshop would be scheduled for January 28, 2019 at 5:00 p.m. to discuss goals and projects for 2019. It was noted that each Commissioner would communicate with Interim City Clerk Combass what they would like to discuss at this workshop so that an agenda could be prepared. It was also noted that a workshop would be scheduled at 4:30 p.m. before each of the meetings held on the first Monday of each month. Commissioner McGahee suggested that workshops could also be scheduled earlier on certain days and Vice Mayor Atkinson suggested that they could also be held on Saturdays.

- 3. Re-appointment of Golf Course Advisory Board Members** – Five of the seven members of the Golf Course Advisory Board have terms which expire December 31, 2018. Those members are Carol Giddens, Karl Larsen, Toni Couse, Robbie Castellanos and Asa Godsey. Carol Giddens, Karl Larsen and Toni Couse have agreed to serve in this capacity again. Robbie Castellanos and Asa Godsey declined another term on the Board, which leaves two seats vacant. The Commission needs to formally re-appoint Carol Giddens, Karl Larsen and Toni Couse.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to re-appoint Carol Giddens, Karl Larsen and Toni Couse to the Golf Course Advisory Board. Vote 5 yeas, 0 nays

- 4. Re-appointment of Community Redevelopment Agency Advisory Committee Members** – Four of the seven members of the Community Redevelopment Agency Advisory Committee have terms which expire December 31, 2018. Those members are Karl Larsen, Sarah Hammock, Jose "Pepe" Lopez and Luan Walker. All have agreed to continue to serve in this capacity again.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to re-appoint Karl Larsen, Sarah Hammock, Jose "Pepe" Lopez and Luan Walker to the Community Redevelopment Agency Advisory Committee. Vote 5 yeas 0 nays

- 5. Re-appointment of Jose "Pepe" Lopez and Pablo Llossas to the Board of Building Commissioners** – The Board of Building Commissioners consists of a City Commissioner and two persons primarily engaged in building construction work. The terms of Jose "Pepe" Lopez and Pablo Llossas have expired. They both have agreed to serve an additional two year term.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to re-appoint Jose “Pepe” Lopez and Pablo Llossas to the Board of Building Commissioners. Vote 5 yeas, 0 nays

Vice Mayor Atkinson expressed that he feels there should be an agreement between the Baseball Board and the City of Clewiston regarding responsibility of each entity. Mayor Gardner suggested that a discussion regarding that matter be held at the January 28, 2019 Workshop and have someone from the Baseball Board attend that workshop.

6. Community Development Department Detailed Activity Report - Presented for information only.

PUBLIC COMMENTS - Mr. Raoul Bataller addressed the Commission and expressed that he feels the City should study its relationship with Hendry County, set goals based on its projected tax base and provide the new City Manager with those goals.

Mr. Phillip Roland addressed the Commission and expressed that he feels a Recreation Director is needed. He then opened a discussion regarding the Blount’s Auto Salvage property located at 375 Haiti and expressed his concern that there is currently cars on both sides of the road and a recycle bin is on the right of way. Code Enforcement Officer Debbie McNeil stated that there is an ongoing case on this matter. City Attorney Brandenburg stated that if the facility is blocking the right of way, the Police Department can ask them to move it from the right of way, if it is not, then we need to proceed forward with the Code Enforcement. Commissioner McGahee stated that she will abstain from this discussion because of a conflict of interest. Attorney Brandenburg informed her that she will need to file a conflict form. Mr. Roland next opened a discussion regarding the pile of concrete on the Hare Lumber property and the liability if someone is injured. Code Enforcement Officer Debbie McNeil updated the Commission on the Code Enforcement process and stated that the issue with the property located at 375 Haiti has been ongoing and the next step is the magistrate. She stated that the property owner has previously been through the special magistrate process, but because there was no finding of guilt, he is not considered to be a repeat offender. Regarding the issue with the pile of concrete, she stated a code enforcement notice of violation was issued and noted that it is up to the Commission to say whether or not they would like the industrial property to build a fence around the property. Mayor Gardner asked Attorney Brandenburg to work with Code Enforcement Officer McNeil and look at this issue and come back to the Commission with a recommendation.

Ms. Laura Smith addressed the Commission and announced that a PAWS spay and neuter clinic will be held for Clewiston residents on January 12, 2019 in Ft. Myers. She stated the costs are \$25 for dogs and \$10 for cats. She added that they will also provide round trip transportation for the animals and will continue having the clinic every month.

Mr. Jerry Cochrane addressed the Commission and reminded them about their previous discussion about improving the US 27 Corridor. Mayor Gardner explained that she feels that matter needs to be discussed at a workshop. Mr. Cochrane stated that he hopes it will be addressed once the City Manager position is filled. He then noted that the Commission should keep in mind that we want the best qualified City Manager and the best one may be a woman.

COMMENTS FROM CITY MANAGER - none

COMMENTS FROM THE CITY ATTORNEY – Attorney Brandenburg informed the Commission that the special magistrate order entered against Clewiston Commons has now been appealed to the Hendry County Circuit Court. He agreed to provide updates to the Commission on this matter.

COMMENTS FROM THE CITY COMMISSION – Vice Mayor Atkinson stated that he feels staff should advertise for a Recreation Director and Public Works Director Sean Scheffler should be compensated for the Recreation Director duties that he has done. Mayor Gardner stated that she feels this matter should be on the list to be discussed at the January 28, 2019 Workshop. She explained that we first need to look at the job description and determine what is needed. Commissioner Petersen expressed that she feels there should be goals and we should re-assess

and re-evaluate exactly what we would like to have for the Recreation Department. Mayor Gardner and Commissioner McGahee expressed they feel it is the City Manager's job to determine if Director Scheffler should be compensated for the work he has done. Commissioner Rodriguez stated he feels no changes should be made until a new City Manager is hired.

Mayor Gardner requested an update from City Engineer Scott Jones regarding the Berner Road sidewalk. City Engineer Jones explained that the City's concerns were shared with the contractor but Johnson-Prewitt & Associates, Inc. does not historically act as an enforcement agency. Mayor Gardner stated that City Manager Perry voiced his concerns in emails dated October 24, 2018 and November 14, 2018 regarding the sidewalk not being replaced accordingly and that no response was received. Vice Mayor Atkinson stated that he feels there is a conflict because Johnson-Prewitt & Associates represents the City and the Royals Company and suggested that Johnson Engineering, Inc. be approved as the engineer to accept the project for the City. City Engineer Jones stated that Johnson-Prewitt & Associates, Inc. was the engineer for the sewer line for Dunkin Donuts and MedExpress. Attorney Brandenburg confirmed that his recollection was that the Commission rejected the request from the Royals Company that there be no hookup fees or impact fees for the sewer line for ten years. Mayor Gardner stated her concerns included the drainage, sewer line drop and the concrete sidewalk that was not built to the specifications and asked Attorney Brandenburg for guidance. Attorney Brandenburg asked if the sidewalk or sewer line had been accepted on behalf of the City. City Engineer Jones stated that the sidewalk had not been accepted and that Utilities Director Danny Williams accepted the sewer line on behalf of the City. Director Williams stated that he accepted the sewer line because it was approved by DEP. Public Works Director Sean Scheffler stated that he had expressed to City Manager Perry that the sidewalk should be replaced with a 6" sidewalk. City Engineer Jones said he has not informed the Royals Company to replace the sidewalk with a 6" sidewalk as he feels he does not have the authority to do that. He stated that he has informed them that the City wants the sidewalk replaced and they have not indicated that they will do that. Attorney Brandenburg stated that he will notify the Royals Company by letter that they will need to replace the sidewalk with a 6" sidewalk. Regarding acceptance of the sewer line, City Engineer Jones explained that it meets the flow requirements and was accepted by DEP; however, they required the Royals Company to sign a letter agreeing to replace that section of the sewer line that was less than the designed slope if there are any maintenance issues within the next year. Commissioner McGahee expressed her concern as to whether the City was covered with the letter. Attorney Brandenburg asked that a copy of the letter be provided to him. Mayor Gardner stated she feels there are also drainage issues and asked that this item be placed on the next commission meeting agenda. She also stated she is concerned because the City Engineer is working on the City's behalf and is also working for the Royals Company. City Engineer Jones confirmed that the detail on the plans indicated a 4" sidewalk; the plan sheet says to replace existing sidewalk; and the detail sheet shows the standard FDOT detail of a 4" sidewalk. He added there is room for confusion especially since the City removed the sidewalk and the contractor had not seen the sidewalk thickness. It was noted that the Royals Company asked the City to remove the sidewalk to help facilitate the project. Attorney Brandenburg stated that he will draft a letter demanding them to immediately replace the sidewalk with a 6" sidewalk and remove the car stops. Mayor Gardner stated she would like to know the cost to the City for removing the sidewalk.

ADJOURNMENT

The meeting adjourned at 7:08 p.m.

Mali Gardner, Mayor

Mary K. Combass, Interim City Clerk