

CITY OF CLEWISTON
Regular Commission Meeting
August 19, 2019

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, August 19, 2019. The meeting was called to order at 5:30 p.m. by Mayor Gardner. Pastor Ivan Cerda of Iglesia Vida Nueva, on behalf 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: City Manager Randy Martin, Interim City Clerk Kathy Combass, Finance Director Shari Howell, Police Chief Aaron Angell, Assistant Police Chief Marci VanD’Huynslager, Utilities Director Danny Williams, Public Works Director Sean Scheffler, Community Development Director Travis Reese, Code Enforcement Officer Debbie McNeil, Golf Director Robbie Rush, Lynne Mila, JD Lucas, City Engineer Andy Tilton and City Attorney Gary Brandenburg.

Visitors Present: Belinda Smith, Gary Corley, Ivan Cerda, Steve and Norma Schneider, Jerry Cochrane, Laura Smith, Christine Howell, Lisa Walker, Terry Gardner, Donnie Hughes, Raoul Bataller, Miller Couse, Asa and Betty Godsey, Frank Harris, Brian Sullivan, Hector Guardia and Ingrid Bon.

ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA – Manager Martin stated that Resolution No. 2019-52 approving a budget amendment is added as Agenda Item No. 12A and Agenda Item No. 12 is renumbered as Agenda Item No. 12B.

1. Consent Agenda

- A. *Special City Commission Meeting Minutes – May 17, 2019*
- B. *City Commission Workshop Minutes – May 20, 2019*
- C. *City Commission Meeting Minutes – May 20, 2019*
- D. *Informational Item - C-21 Bridge Project Updated Timeline*

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

QUANTA TECHNOLOGY, LLC ADVANCED METERING INFRASTRUCTURE (AMI) DEPLOYMENT PROPOSAL REVIEW (August 19, 2019 Workshop) – Cairo Venegas, FMPA

HERBERT HOOVER DIKE CLEWISTON AREA PROJECT UPDATE – Ingrid Bon, U.S. Army Corps of Engineers

Mayor Gardner welcomed Ingrid Bon, one of the U.S. Army Corps of Engineers’ project managers of this project. Ms. Bon reviewed the project goals, rehabilitation solutions and implementation plan with the Commission. She stated the project must be complete by 2022. Mayor Gardner asked Manager Martin to find out when the comment period ends and when the new flood maps will go into effect for the community. Attorney Brandenburg raised questions regarding the duration of the Clewiston portion of the project, the number of hours per day the work will be running and the amount of lighting that will be used. Ms. Bon responded that all of the task order contracts are scheduled through some time in 2022; the contractors are allowed to work 24 hours per day; and there are no restrictions regarding lighting and noise unless there is a City ordinance regarding those matters. She confirmed that Task Orders 1 and 2 are let and the recreation area will be closed during the construction. She agreed to inform Manager Martin of the dates the recreation area will be closed and confirmed the contractors have agreed that no work on Task Order #2 of the project from November through February each year will be done. At Mayor Gardner’s request, Ms. Bon agreed to provide a schedule to Manager Martin once it is approved.

ORDINANCES

2. **Ordinance No. 2019-03 – First Reading** – Ordinance No. 2019-03 approves the City of Clewiston Honesty, Integrity and Government in the Sunshine Guide dated July 25, 2019.

Mayor Gardner summarized and read Ordinance No. 2019-03 by title.

Commissioner McGahee made a motion, seconded by Commissioner Rodriguez, to approve Ordinance No. 2019-03 on first reading and set the public hearing for September 23, 2019. Vote 5 yeas, 0 nays

3. **Ordinance No. 2019-04 – First Reading** – Ordinance No. 2019-04 modifies Article VI, Section 110-525 of the Clewiston Code of Ordinances relating to home occupations.

Mayor Gardner summarized and read Ordinance No. 2019-04 by title.

Vice Mayor Atkinson made a motion, seconded by Commissioner Petersen, to approve Ordinance No. 2019-04 on first reading and set the public hearing for September 23, 2019. Vote 5 yeas, 0 nays

4. **Ordinance No. 2019-05 – First Reading** – Ordinance No. 2019-05 approves the proposed change to Section 58-10 of the Clewiston Code of Ordinances regarding outdoor roadside sales of merchandise.

Mayor Gardner summarized and read Ordinance No. 2019-05 by title.

Commissioner McGahee made a motion, seconded by Vice Mayor Atkinson, to approve Ordinance No. 2019-05 on first reading and set the public hearing for September 23, 2019. Vote 5 yeas, 0 nays

5. **Ordinance No. 2019-06 – First Reading** – Ordinance No. 2019-06 amends Article VII Section 22-152 of the Clewiston Code of Ordinances, providing for the exclusion of hemp-based low-THC CBD oil from the definition of “Cannabis”.

Mayor Gardner summarized and read Ordinance No. 2019-06 by title.

Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to approve Ordinance No. 2019-06 on first reading and set the public hearing for September 23, 2019. Vote 5 yeas, 0 nays

6. **Ordinance No. 2019-07 – First Reading** – Ordinance No. 2019-07 amends Chapter 38 of the Code of Ordinances of the City of Clewiston relating to fireworks use within the City limits.

Mayor Gardner summarized and read Ordinance No. 2019-07 by title.

Commissioner Petersen made a motion, seconded by Commissioner McGahee, to approve Ordinance No. 2019-07 on first reading and set the public hearing for September 23, 2019. Vote 5 yeas, 0 nays

7. **Ordinance No. 2019-08 – First Reading** – Ordinance No. 2019-08 rezones Lot 17, Block 410 of the General Plan of Clewiston from Mobile Home and Recreational Vehicle Park District (RM-1) to the Industrial District (I).

Mayor Gardner summarized and read ordinance No. 2019-08 by title.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve Ordinance No. 2019-08 on first reading and set the public hearing for September 23, 2019. Vote 5 yeas, 0 nays

RESOLUTIONS

8. **Resolution No. 2019-47** – Resolution No. 2019-47 approves the Local Memorandum of Understanding Between the Hendry County Amateur Radio Emergency Service (ARES) and the City of Clewiston in order to establish a framework of cooperation and a close working relationship with volunteer radio amateurs to best serve the public in disaster, emergency or other public service related situations.

Mayor Gardner summarized and read Resolution No. 2019-47 by title.

Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to approve Resolution No. 2019-47. Vote 5 yeas, 0 nays.

9. **Resolution No. 2019-48** – Resolution No. 2019-48 approves the Amendment to the Continuing Agreement for Professional Services, Dated May 23, 2018, Between Johnson Engineering, Inc. and the City of Clewiston pertaining to indemnification of the Florida Department of Transportation (FDOT) and cooperation with the State of Florida Inspector General.

Mayor Gardner summarized and read Resolution No. 2019-48 by title.

Commissioner Rodriguez made a motion, seconded by Vice Mayor Atkinson, to approve Resolution No. 2019-48. Vote 5 yeas, 0 nays.

10. **Resolution No. 2019-49** – Resolution No. 2019-49 approves Modification #Z0012-2 to Subgrant Agreement Between the Division of Emergency Management and City of Clewiston regarding Hurricane Irma assistance. This modification is needed in order to include two (2) additional projects for which funds have been obligated.

Mayor Gardner summarized and read Resolution No. 2019-49 by title.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve Resolution No. 2019-49. Vote 5 yeas, 0 nays.

Before the vote, Commissioner McGahee asked for an explanation of the modification. Finance Director Shari Howell explained that an amendment is needed once each project is approved and once the amendment is approved, the City should receive reimbursement funding for that project.

11. **Resolution No. 2019-50** – Resolution No. 2019-50 approves the Coverage Agreement between Florida Municipal Insurance Trust and the City of Clewiston outlining medical coverages and premiums for FY 2020.

Mayor Gardner summarized and read Resolution No. 2019-50 by title.

Vice Mayor Atkinson made a motion, seconded by Commissioner McGahee, to approve Resolution No. 2019-50. Vote 5 yeas, 0 nays.

- 12A. **Resolution No. 2019-52** – Resolution No. 2019-52 adopts Amendment 1 to the budget for FY 2018-2019 regarding the purchase of sixty (60) new 2020 golf carts from Club Car, LLC.

Mayor Gardner summarized and read Resolution No. 2019-52 by title. Manager Martin stated this amendment is to ensure we have funding for the purchase. Attorney Brandenburg noted we have to have the money in hand and appropriated and encumbered. He stated in order to move forward, the resolution needs to be amended to say that we are transferring \$200,000 from some other account to the golf course account. Manager Martin explained that we hopefully will come back at the next meeting with a recommendation on financing. Commissioner Rodriguez asked why Attorney Brandenburg didn't discuss this with Manager Martin. Attorney Brandenburg explained that he had not seen the resolution until tonight and the item on the agenda did not say anything about a loan. Manager Martin noted that Attorney Brandenburg was not at the workshop when this item was discussed and the resolution was just put together today. Finance Director Howell stated that we will most likely use loan proceeds as well as the trade in and the purchase will probably take place next fiscal year. It was confirmed the full \$200,000 would be transferred from reserves into the golf course budget to fund the purchase of the new golf carts. Attorney Brandenburg

suggested changes and additions for the resolution and recommended this item be postponed until later at this meeting. Commissioner McGahee explained that the Commission had discussed this matter at length and had decided that this is in the best interest of the City. She also stated that in the coming year, the Commission intends to look closely at all of our recreational uses of property within the City. Mayor Gardner stated that Agenda Items 12A and 12B are postponed until later at this meeting after the changes have been made to Resolution No. 2019-52.

After Agenda Item 13 was tabled and the discussion regarding Agenda Item 14, Attorney Brandenburg reviewed the revised resolution and explained that the proposal is to utilize budgeted contingency and legal fees. Director Howell explained that she did not use recreation accounts because the City receives funding from Hendry County and she did not want anybody to think that any of the funding from Hendry County was supporting the golf carts.

Commissioner McGahee made a motion, seconded by Vice Mayor Atkinson, to approve Resolution No. 2019-52. Vote 4 yeas, 1 nay. Commissioner Petersen voted nay.

Before the vote, Golf Director Robbie Rush confirmed that new chargers will be provided with the new carts and Manager Martin stated that we will be able to get back on an annual rotation for purchasing golf carts.

- 12B. Resolution No. 2019-51** – Resolution No. 2019-51 authorizes the purchase of sixty (60) new 2020 golf carts from Club Car, LLC for the Clewiston Golf Course, utilizing the current golf cart fleet trade-in value of \$59,950.00 and directs staff to seek financing proposals from local banking institutions.

Mayor Gardner summarized and read Resolution No. 2019-51 by title.

Commissioner McGahee made a motion, seconded by Vice Mayor Atkinson, to approve Resolution No. 2019-51. Vote 5 yeas, 0 nays.

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

- 13. Discussion regarding the changing of dedicated alleys to easements (This item was tabled at the July 22, 2019 City Commission Meeting to a time certain of August 19, 2019.)** – The Planning & Zoning Board met on June 19, 2019 to review the proposed changes to Section 110-2 of the City of Clewiston Code of Ordinances regarding the definition of a rear setback.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to table this agenda item until the analysis is complete. Vote 5 yeas, 0 nays.

- 14. Discussion regarding the application for a Vacation of Easement, Right Of Way or Plat (This agenda item was tabled at the July 22, 2019 City Commission Meeting.)** – The Planning & Zoning Board met on June 19, 2019 to discuss the application for a Vacation of Easement, Right Of Way or Plat by Stephen E. and Norma R. Schneider requesting the City to abandon the easement described as “Parcel A” on the Descriptive Drawing prepared by Johnson-Prewitt & Associates, Inc., which parcel is adjacent to the applicants’ homestead property located at 800 West Royal Palm Avenue.

After Attorney Brandenburg confirmed the abandonment would have to go through a public process, Mayor Gardner stated the Commission will need to decide whether or not to proceed with this request. Attorney Brandenburg stated if the Commission decides to proceed, the next step would be the first reading of an ordinance. Manager Martin stated the appraised value of the property determined by Scott C. Wegscheid, Certified Appraiser, was \$3,850. Commissioner Petersen expressed that she feels we need to move forward with the request because of the years that Mr. and Mrs. Schneider spent taking care of the property. Commissioner Rodriguez recommended the City move forward with selling the property to Mr. and Mrs. Schneider and suggested that if Mr. and Mrs. Schneider ever decide to sell the property, the City have first option to purchase the property. Commissioner McGahee

expressed that she is adamantly opposed to this request and hopes the Commission will think about and hear the other side of the argument before a decision is made. She stated that the property is located at the end of one of the most prevalent and prominent avenues in the City and feels it is worth much more than \$3,850. She also stated that we should think about the future of our community as we don't know what Mr. and Mrs. Schneider's successors and interests will do with the property. Mayor Gardner stated she hoped the appraisal would reflect a better assessment of the property and noted that the Commission is looking at all options in order to work out a decision on what is best for the City. In response to Commissioner McGahee's request to verbalize why Mr. and Mrs. Schneider want the property, Mr. Schneider stated he wants to protect the property and the end of Royal Palm Avenue, add some landscaping and be able to control what happens in his front yard. Commissioner McGahee stated she may agree to abandon the property if Mr. and Mrs. Schneider would agree to have the property revert back to the City. Attorney Brandenburg then suggested the City give Mr. and Mrs. Schneider the right to use the property with the City having the ability to terminate the right to use. Mr. Schneider noted that one election could change any agreement. Commissioner McGahee stated she is trying to accommodate the request but feels there are a lot of things moving in our community right now. Mayor Gardner stated there was a previous discussion about a landscape buffer with a partial abandonment at the July 22, 2019 Commission Meeting and asked Attorney Brandenburg and Manager Martin to discuss that option. Attorney Brandenburg noted the Commission may want to consider refunding the fee that Mr. and Mrs. Schneider paid if the Commission decides to give them the right to use the property. Commissioner McGahee stated she would like to see their plan for the property. Attorney Brandenburg suggested their plan be attached to the agreement. Mr. Schneider stated that he would agree to do that. Vice Mayor Atkinson expressed that he feels the property should be abandoned with a deed restriction so the City will receive the property taxes. Mayor Gardner stated that because they all have different opinions, she feels Attorney Brandenburg and Manager Martin should review the options and come back with something mutually agreeable. Attorney Brandenburg urged the Commission to give direction on what they would like to do so that he can come back with the proper document.

Commissioner McGahee made a motion that the Attorney and City Manager be tasked with a right of use that would accommodate Mr. and Mrs. Schneider's request to allow their children to play on the property, to maintain the property and in conjunction with a landscape plan, the City would allow them to use that property for a certain period of time but with some termination provision that gives Mr. and Mrs. Schneider some comfort that what they want to do, they can do without a lot of risk of a changing commission. The motion failed for lack of a second.

Commissioner Rodriguez recommended Attorney Brandenburg and Manager Martin come up with a solution to be considered by the Commission at the next meeting. Commissioner Petersen expressed she feels an ordinance abandoning the property should be prepared. Mayor Gardner asked if any of the Commissioners were not in agreement of a partial abandonment with a landscape buffer that is mirrored on both sides of the property so that it protects the look of the property. There was a brief discussion on how much of the property should be retained for the buffer. Vice Mayor Atkinson stated that he would like to see an ordinance that reflects what the Planning and Zoning Board recommended. Commissioner McGahee stated that she wanted her position to be on the record. Mayor Gardner expressed that she feels a portion of the right-of-way should be maintained by the City in order to safeguard any concerns for the future. She requested Attorney Brandenburg and Manager Martin to come back with a recommendation in the ordinance and confirmed the ordinance should include a deed restriction.

15. Discussion regarding the Commission Meeting and Workshop Schedule for October, November and December, 2019 – City Manager Randy Martin

Manager Martin recommended the Commission adopt the schedule presented for the remainder of 2019. He added that a recommendation for the 2020 schedule will be presented before the end of 2019. The Commission was in favor of the meeting and workshop schedule presented for the remainder of 2019.

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

PUBLIC COMMENTS – Mr. Milo Heimus addressed the Commission regarding the City’s position on facing cyber security. He distributed flyers to the Commission regarding the services that Sollievo IT, LLC provides. Mayor Gardner stated that because he is selling his services to the City, he should first meet and discuss this with the City Manager. Attorney Brandenburg agreed.

Mr. Brian Sullivan addressed the Commission and expressed his concern with the time delays on the issuance of Certificates of Occupancy. He stated he feels there is no need for all department heads to sign off on Certificates of Occupancy. Attorney Brandenburg stated he feels there is a need for all department heads to sign off and suggested that it could all be done electronically. At Mayor Gardner’s request, Manager Martin agreed to review the process.

COMMENTS FROM CITY MANAGER – Manager Martin stated that he and Vice Mayor Atkinson attended the Florida League of Cities Conference. He noted that a handout was distributed to the Commission regarding the statute changes on firefighter benefits and agreed to email a copy of the program distributed at the business meeting to the Commission. Vice Mayor Atkinson stated that he sat in on the Southwest Florida Regional Planning Council Meeting at the conference and was excited to hear that Governor DeSantis is working to streamline processes so that monies go out quicker after disasters. He also stated that, in reference to the changes regarding firefighter benefits, the Florida League of Cities is working to find out if our volunteer firefighters qualify. He added that another topic of discussion was ransomware. Manager Martin indicated that he will follow up with the Florida League of Cities regarding firefighter benefits and will meet with the City’s IT Administrator to discuss his recommendations regarding ransomware.

COMMENTS FROM THE CITY ATTORNEY – Attorney Brandenburg informed the Commission the mediation in the City of Clewiston v. Johnson-Prewitt case did not result in a settlement so the case will continue. He then noted that there was a revision to the Sunshine Law that was effective in 2018 that requires you to give the public an opportunity to speak on an item before you consider and vote on that item. He stated we need to take a closer look at add on items in the future. He noted that it is okay to add discussion items. Commissioner McGahee stated she feels we don’t give the public good notice of agenda items and should include the agenda items on our website. Manager Martin stated he is looking at updating our technology so that it is easier to do those things. Mr. Hector Guardia noted that Broward County videos their public meetings. Mayor Gardner informed Mr. Guardia that the City is currently livestreaming the meetings. Mr. Raoul Bataller requested the meeting agendas be posted in a pdf format. It was noted the agendas are currently posted in pdf format.

COMMENTS FROM THE CITY COMMISSION – Commissioner Rodriguez expressed his concern regarding the palm trees recently planted along US27. Manager Martin stated that our concerns have been communicated with the landscape architect who is communicating with the contractor. Director Scheffler stated that he has been in contact with the landscape architect and contractor regarding the size of the trees in addition to some other items. He noted that some trees will have to be replaced by the contractor as they do not meet the specs. He also noted there is a one-year warranty on the trees.

ADJOURNMENT

The meeting adjourned at 8:02 p.m.

Mali Gardner, Mayor

Mary K. Combass, Interim City Clerk