

**CITY OF CLEWISTON**  
**Regular Commission Meeting**  
**July 22, 2019**

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The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, July 22, 2019. The meeting was called to order at 5:31 p.m. by Mayor Gardner. The audience recited the Lord's Prayer and the Pledge of Allegiance.

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

**Personnel Present:** City Manager Randy Martin, Interim City Clerk Kathy Combass, Finance Director Shari Howell, Assistant Police Chief Marci VanD'Huynslager, Public Works Director Sean Scheffler, Community Development Director Travis Reese, Library Director Natasha Hayes, Code Enforcement Officer Debbie McNeil, Chelsea Strawser, JD Lucas, City Engineer Andy Tilton and City Attorney Gary Brandenburg.

**Visitors Present:** Steve Schneider, Al and Sandra Morrell, Pepe Lopez, Dick Metz, Christine Howell, Phillip Roland, Asa and Betty Godsey, Laura Smith, Antonio Perez, Mike Atteberry, Lewell Hughes, Steve Daniel and Terry Gardner.

**ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA** - Mayor Gardner welcomed Randy Martin, the City's new City Manager and stated that Agenda Item No. 11 is renumbered to Agenda Item No. 12 and an update on the C-21 Bridge Project and Resolution No. 2019-46 are added as Agenda Item No. 11.

**1. Consent Agenda**

- A. Special City Commission Meeting Minutes – April 29, 2019*
- B. City Commission Workshop Minutes – May 6, 2019*
- C. City Commission Meeting Minutes – May 6, 2019*
- D. Informational Item – Ceres Environmental Services, Inc. decided not to move forward with the execution of the Contract for Disaster Debris Removal and Disposal Services*
- E. Informational Item – Florida Department of Environmental Protection approval of request for pre-authorization of Disaster Debris Management Site*
- F. Informational Item - Grant Adjustment Notice*

**Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to approve the Consent Agenda. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

**MISCELLANEOUS ACTION AND DISCUSSION ITEMS**

- 2. Re-appointment of City of Clewiston Planning and Zoning Board Members** – The Planning and Zoning Board consists of five members. Members for consideration of re-appointment are Lewell Hughes, Donald Hughes, Robert “Mickey” McGahee and Charles “Jerry” Cochrane for two-year terms.

**Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to approve the re-appointment of Lewell Hughes, Donald Hughes, Robert “Mickey” McGahee and Charles “Jerry” Cochrane for two year terms to the Planning and Zoning Board. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

- 3. Approval of Truth in Millage (TRIM) Documents/information to be transmitted to the Hendry County Property Appraiser by August 4, 2019** – The Commission should approve the required information to be included in the 2019 Truth in Millage (TRIM) Documents

which must be transmitted to the Hendry County Property Appraiser by August 4, 2019. This is the second step in the TRIM process.

**Commissioner Rodriguez 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 current millage rate of 6.5314. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

4. **Discussion regarding the changing of dedicated alleys to easements** – 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 Rodriguez made a motion, seconded by Vice Mayor Atkinson, to table this matter to the next Commission Meeting on August 19, 2019. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

5. **Discussion regarding the application for a Vacation of Easement, Right Of Way or Plat** – 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.

City Attorney Brandenburg reviewed the applicant's request and stated that the applicant has agreed to accept the property with a deed restriction and the adjacent property owner is waiting to see what is going to happen with Mr. Schneider's application before submitting a request to abandon “Parcel B”. He also stated that at today's workshop, the Commission requested an appraisal of the property and that request should be considered in a motion. He noted that other items the Commission should consider is whether there would be a deed restriction or a partial abandonment. Mayor Gardner stated that she feels we have to look at the value of the property in order to make a decision. She also stated that she does not feel a decision could be made until we have more information unless the Commission wishes to deny the request. She further stated that if the City decides to proceed in abandoning the property, a first and second reading of an ordinance would be required.

**Commissioner Rodriguez made a motion, seconded by Vice Mayor Atkinson, to table this matter to continue the discussion until an appraisal is done. Vote 3 yeas, 1 nay (Commissioner Petersen was absent and Commissioner McGahee voted nay.)**

Before the vote, Vice Mayor Atkinson suggested that the Commission decide if a deed restriction would be required so that the restriction would be considered in the appraisal. Mayor Gardner also raised questions as to whether the City should pay for the appraisal since Mr. and Mrs. Schneider have paid the \$2,500 application fee to the City. Attorney Brandenburg stated the Commission could agree to pay the cost of the appraisal if they felt it was in the public's interest. Vice Mayor Atkinson made a motion for the City to pay the cost of the appraisal. After discussion regarding the application process costs and Mr. Schneider agreeing to pay the cost of the appraisal, Vice Mayor Atkinson rescinded his motion.

6. **Discussion regarding the use of internet in residential zoning districts** – Pursuant to a City resident's request, the Planning & Zoning Board met on June 19, 2019 to review proposed changes to Section 110-525 of the Clewiston Code of Ordinances regarding home occupations.

City Attorney Brandenburg explained that this ordinance would recognize that the City does not regulate internet activity in residential zoning districts. He clarified it would not change how the City regulates any home occupations or anything else in any of the zoning codes. Mayor Gardner read the proposed additional language to paragraph (a) of Section 110-525 of the Clewiston Code of Ordinances out loud.

**Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to approve the proposed additional language for the first reading of an ordinance. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

Before the vote, Attorney Brandenburg confirmed there were no cons to this change.

7. **Discussion regarding the prohibition of outdoor roadside sales of merchandise** – Pursuant to a request by Alan Jay Chrysler Dodge Ram Jeep of Clewiston, the Planning & Zoning Board met on June 19, 2019 to review a proposed change to Section 58-10 of the Clewiston Code of Ordinances regarding outdoor roadside sales of merchandise.  
**Exhibit:** Agenda Item Report No. 7  
**Recommendation:** Commission Discretion

Mayor Gardner summarized the request by Alan Jay Chrysler Dodge Ram Jeep of Clewiston. Attorney Brandenburg noted that the Planning and Zoning Board recommended approval of the proposed change and stated that if the Commission approves, an ordinance for first reading will come forward.

**Vice Mayor Atkinson made a motion, seconded by Commissioner McGahee to approve the proposed change to Section 58-10 of the Clewiston Code of Ordinances to allow the sale of automobiles, recreational vehicles, or boats of merchants that currently hold a valid business license with the City within allowable zoning district. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

8. **Discussion regarding City of Clewiston Honesty, Integrity and Government in the Sunshine Guide** – As the City Commission directed at the May 6, 2019 City Commission Meeting, City Attorney Brandenburg prepared a draft of a City of Clewiston Code of Ethics Guide.

**Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to table this item to another meeting to allow more time for the Commission to discuss this with Manager Martin. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

9. **Discussion regarding Medical Marijuana Moratorium** – Ordinance No. 2017-17 adopted by the City Commission on September 18, 2017 established a ban on medical marijuana treatment dispensary facilities. City Attorney Gary Brandenburg requested the medical marijuana moratorium be discussed.

Attorney Brandenburg explained that the language in the City's moratorium needs to be amended to exclude CBD oil because it is legal to sell CBD oil in Florida. He also explained that because there are no real issues any longer regarding the uncertainty in regards to the sale and licensing of medical marijuana dispensaries, the Commission may want to consider providing some place in the City for that activity to occur. He confirmed the sale and licensing of medical marijuana dispensaries are still a violation of federal law and recommended an ordinance narrowly describing where that activity could occur so that the City would not be subject to any litigation for not allowing it at all. Mayor Gardner expressed that she feels more discussion is needed. She stated that she would like to see what other small towns are doing and feels the ordinance should be amended only to exclude CBD oil at this time.

**Commissioner McGahee made a motion, seconded by Commissioner Rodriguez, to amend the ordinance to comply with the law with regards to CBD oil. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

10. **Discussion regarding Fireworks** – City Attorney Gary Brandenburg.  
**Exhibit:** Agenda Item Report No. 10  
**Recommendation:** Commission Discretion

Mayor Gardner stated that she has received complaints from residents regarding the amount of fireworks that are being set off in neighborhoods. Attorney Brandenburg suggested the Commission consider adopting an ordinance similar to Martin County's ordinance regarding fireworks and recommended language prohibiting re-manufactured fireworks be added. He described how some people make homemade cannons and indicated that activity is a violation of both federal and state law and those people could be subject to imprisonment.

He stated the ordinance would also prohibit firing off any fireworks on publicly owned land. Mr. Dick Metz addressed the Commission and expressed his concern with fireworks in residential neighborhoods that cause the ground and houses to shake. Attorney Brandenburg announced that if anyone in the County or City is using other explosives that are not derived from fireworks, it is against federal and state law and is subject to imprisonment. Ms. Laura Smith addressed the Commission and stated that it is her understanding that the new fireworks are more powerful but feels they are legitimate. Community Development Director Travis Reese explained that any type of projectile firework is illegal unless you are using it for agricultural purposes. Mayor Gardner stated that Attorney Brandenburg will bring an ordinance to the Commission for consideration. Commissioner McGahee expressed that she feels this is something the Police Department needs to enforce. Director Reese stated that it is a first degree misdemeanor to detonate those types of fireworks. He added that they are dangerous and illegal and urged the residents to attend the City's fireworks show.

**Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, for Attorney Brandenburg to prepare an ordinance for first reading similar to Martin County's ordinance regarding fireworks with additional language prohibiting re-manufactured fireworks. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

11. **C-21 Bridge Project Update and Resolution No. 2019-46** – Resolution No. 2019-46 authorizes the execution of the South Florida Water Management District's Application Waiver of the District's requirement to take final action on a permit application within 90 days of completeness.

City Engineer Andy Tilton updated the Commission on the C-21 Bridge Project. He stated that the application for an environmental resource permit has been made to South Florida Water Management District. Mayor Gardner explained to the public that the City has applied for grant funding to begin the engineering work and the overview of the project to move the S169 structure. She stated the roadway to cross the levee will eventually go away. Engineer Tilton stated that the Water Management District has asked the City to waive the time clock for the time being to allow them more time to review the revised plans after they requested additional items on the plans. Engineer Tilton stated they are planning to submit the additional items that were requested with the architectural plans and recommended the Commission approve the time waiver. Mayor Gardner then read Resolution No. 2019-46 by title and explained that this resolution addresses the time waiver that Engineer Tilton discussed. Finance Director Shari Howell explained that there is a grant agreement with South Florida Water Management District for the technical services to prepare the plans to build the bridge and expressed that it is important that we keep this moving. She stated the deadline for this grant is August 31, 2019 and noted that we may have to ask for another grant extension.

**Vice Mayor Atkinson made a motion, seconded by Commissioner McGahee to approve Resolution No. 2019-46. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

Mayor Gardner noted that the City's Lobbyist, Screven Watson, worked hard with the legislators to get the \$2,000,000 to build the new crossing onto the levee. Director Howell stated for the record, the reason this resolution was added to this agenda is because we just received the information today. She noted the deadline was July 26, 2019. Mayor Gardner stated that there will be a meeting on Friday, July 26, 2019 with the City, South Florida Water Management District, Florida Department of Transportation and U.S. Army Corps of Engineers regarding this project as it will be parallel with the Herbert Hoover Dike cutoff wall project, which is scheduled to start in November. Attorney Brandenburg stated that we want to make sure that we use every dollar available to us under the South Florida Water Management District Grant to further this project along in the best possible way. He added that he recommends a motion be made to authorize the City Manager to pursue that issue on the City's behalf to make sure those grant monies are fully utilized.

**Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to approve Resolution No. 2019-46 and authorize the City Manager to make sure that the City uses every dollar available to us under the South Florida**

**Water Management District Grant to further this project along in the best possible way. Vote 4 yeas, 0 nays (Commissioner Petersen was absent.)**

**11. Departmental Monthly Activity Reports - Presented for information only.**

**PUBLIC COMMENTS** – Mr. Jerry Cochran addressed the Commission and stated that there was an article in the Hendry Glades Sunday News with comments about zoning problems and asked if anyone had any comments about that matter. Commissioner McGahee stated that her understanding of the article was that it addressed property in the industrial area. She expressed that she understands there are things that need to be cleaned up there, but hopes that we focus harder on the “front door” of our community. She added that Code Enforcement Officer McNeil is working on those issues. Mayor Gardner expressed that she feels our “front porch” should take priority over the industrial area. Commissioner McGahee noted that the City does not have the manpower to enforce the code as much as we’d like.

Mr. Phillip Roland addressed the Commission and stated that he feels the City should spend its FY 2020 paving budget to resurface East Ventura Avenue. He added that he feels there is no other road travelled as much as Ventura other than U.S. 27.

Mr. Mike Atteberry addressed the Commission and expressed his concern with the speed of vehicles on Berner Road and golf carts with no registration and insurance. He stated that he should not be asked to do the City’s job. Mayor Gardner noted that the speed limit for most streets is 30 mph. Options for traffic calming were discussed. Mayor Gardner asked Manager Martin to look at this matter. Director Reese suggested that staff get a group together to look at options. Mr. Atteberry suggested that we use stop signs to slow the traffic.

**COMMENTS FROM CITY MANAGER** – Mayor Gardner announced that there will be a joint gathering hosted by the Clewiston Chamber and Museum to get to know Manager Martin and other new people in the community in September. Manager Martin stated that he has had an excellent first day on the job and is excited and ready to go to work. He thanked the Commission for the opportunity and assured the citizens that he will do everything that he can to work with staff and deliver the best quality services that we possibly can.

**COMMENTS FROM THE CITY ATTORNEY** – Regarding the fireworks issue, Attorney Brandenburg suggested that an ordinance be prepared for first reading that says that certain fireworks can only be shot off in a residential area between certain times and any other time, you would be arrested. After discussion, he agreed to work to prepare an ordinance for first reading.

**COMMENTS FROM THE CITY COMMISSION** – Commissioner McGahee asked Mayor Gardner to summarize the items that were secured by Lobbyist Screven Watson. Mayor Gardner stated that Lobbyist Watson worked hard with the legislators to receive the \$2,000,000 for the bridge project that was discussed tonight. She noted that it is a very big project as the bridge will be a raised crossing and we will be able to offer access to the water from someone’s home. She also stated that grant funding in the amount of \$350,000 for two emergency generators was received and expressed her appreciation to Lobbyist Screven Watson, Senator Kathleen Passidomo and Representative Byron Donalds. She added that Hendry County received a \$1,000,000 appropriation for the engineering work for the wastewater treatment line from Clewiston’s Wastewater Treatment Plant to Airglades and a \$400,000 appropriation for the Hendry County Fair and Livestock Facility.

Commissioner Rodriguez urged City residents to continue to come to the Commission Meetings to address things they feel the Commission needs to know in order to make the City a better place to live.

Vice Mayor Atkinson welcomed Manager Martin and apologized for missing last month’s meeting. He announced that he is working with the Supervisor of Elections to resign his seat on the City Commission as of November 2020 in order to run for Hendry County Commissioner. He thanked everyone for their support and stated that he is looking forward to serving the City in a different capacity.

Mayor Gardner stated that she had the opportunity to welcome the new Chairman, Director and Attorney for the South Florida Water Management District last week as she showed them around our community. She invited them to come back so that we can host a South Florida Water Management Meeting or Workshop at the John Boy Auditorium. She also stated that Senator Rubio is hopefully coming to Clewiston in the near future to visit some of the Area Housing Commission projects. She further stated that she is looking forward to working with Mr. Martin, is thankful for the new faces at tonight's meeting and is looking forward to hearing from the community as we go into the budget process. She noted there is a budget workshop tonight and the other workshops are posted on the City's website.

**ADJOURNMENT**

The meeting adjourned at 6:54 p.m.

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Mali Gardner, Mayor

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Mary K. Combass, Interim City Clerk