

CITY OF CLEWISTON
Regular Commission Meeting
May 18, 2020

The City of Clewiston Commission held its regular meeting by telephone conference call on Monday, May 18, 2020. The meeting was called to order at 5:00 p.m. by Mayor Gardner.

Commissioners in attendance by telephone: Mayor Mali Gardner, Vice Mayor Michael Atkinson, Commissioner Melanie McGahee, Commissioner Kristine Petersen and Commissioner Julio Rodriguez.

Personnel in attendance by telephone: City Manager Randy Martin, City Clerk Kathy Combass, Utilities Director Danny Williams, City Consulting Engineer Andy Tilton and City Attorney Gary Brandenburg.

Others in attendance by telephone: Paul Jacques, USACE representative

Virtual Meeting Instructions on How to Watch and/or Participate:

The City of Clewiston Commission Meeting will be live on the City's Facebook page at <https://www.facebook.com/cityofclewiston> and the City's website at <http://clewiston-fl.gov/meetings>. Public comments or questions may be submitted via email to the City Clerk at cityclerk@clewiston-fl.gov for the Commission's consideration up until 12:00 p.m. on the day of the meeting. Public comments will also be allowed via telephone (Phone # 863-254-4038, Room # 994729) at the time the agenda item is being considered when the Mayor invites public comments. Members of the public, when addressing the Commission, via email or telephone, must state his or her name, address, contact information and agenda item they wish to speak about. Be advised that the Commission may take action on items not listed on the agenda. If this occurs, public comments will be received at the time the item is considered provided you speak up indicating your desire to speak when the Mayor invites public comments.

Statement of the Mayor regarding Virtual Public City Commission Meeting:

Pursuant to Executive Order No. 20-69, issued by the Office of Governor Ron DeSantis on March 20, 2020, municipalities may conduct meetings of their governing boards without having a quorum of its members present physically or at any specific location, and utilizing communications media technology such as telephonic or video conferencing, as provided by Section 120.54(5)(b)2, Florida Statutes. The members of the City Commission appearing remotely for this meeting are Mayor Mali Gardner, Vice Mayor Michael Atkinson, Commissioner Melanie McGahee, Commissioner Kristine Petersen and Commissioner Julio Rodriguez.

Prayer and Pledge of Allegiance – The Lord's Prayer and Pledge of Allegiance were recited by those in attendance.

Additions/Deletions/Changes and Approval of the Agenda - none

Public Comments - none

1. Consent Agenda

- A. *City Commission Budget Workshop Minutes – August 5, 2019*
- B. *City Commission Budget Workshop Minutes – August 6, 2019*
- C. *City Commission Workshop Minutes – December 9, 2019*
- D. *City Commission Meeting Minutes – December 16, 2019*
- E. *City Commission Meeting Minutes – January 27, 2020*
- F. *City Commission Meeting Minutes – February 17, 2020*
- G. *Special City Commission Meeting Minutes – February 27, 2020*
- H. *Proclamation – Community Action Month – May 2020*

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

RESOLUTIONS

2. **Resolution No. 2020-31** – Resolution 2020-31 approves Work Order No. 22 of the Continuing Agreement for Professional Services between the City of Clewiston and Johnson Engineering, Inc. for water main improvements to serve the commercial area south of the intersection of Comercio Street and Ventura Avenue.

Mayor Gardner read Resolution No. 2020-31 by title. Manager Martin reviewed the proposed project with the Commission. Because the Alan Jay auto dealership's construction project is on hold, Commissioner McGahee requested that the mobile home placed on U.S. 27 for construction purposes be addressed. Manager Martin stated that it will be addressed by the Community Development Department. It was also noted that the estimated cost for this proposed project scope is expected to be less expensive than the available amount budgeted because there is less asphalt to dig up and it will not cross W.C. Owen Avenue. Vice Mayor Atkinson asked if the cost to tie in Alan Jay to the water line will be higher later than if they were to tie in now. City Engineer Andy Tilton stated that the cost should not be substantially different because of the size of this project. Director Williams explained the cost for this project is the City's half and if and when Alan Jay commits, the cost for that portion would be theirs. Mayor Gardner invited public comments. No public comments were heard. She then again referenced Resolution No. 2020-31 by title.

Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to approve Resolution No. 2020-31. Vote 5 yeas, 0 nays

3. **Resolution No. 2020-32** – Resolution No. 2020-32 approves an amendment to the US Army Corps of Engineers (USACE) and the City of Clewiston Utility Contract No. W912EP17C0037. The Septic to Sewer Project request is the Corps' commitment to reimburse the city for costs associated with the design/build project as detailed in the City of Clewiston's Continuing Agreement for Professional Services, Johnson Engineering Work Order No. 21. USACE Project Manager/Engineer Paul Jacques will be available to answer questions.

Mayor Gardner summarized Resolution No. 2020-32. Manager Martin reviewed the project and explained that this agreement affects the U.S. Army Corps of Engineers' reimbursement to the City for utility services and is proposed to be amended to include the construction of the improvement and will extend the previous agreement. He stated that this extended agreement includes necessary language to cover the proposed project to expand the scope to include sanitary sewer services. He explained the draft language included in the agenda requires a commitment from the Corps for reimbursement to the City, which will require a subsequent action to bring back another amendment to the extended service agreement. He stated that the Corps can only currently commit to \$465,000. Vice Mayor Atkinson stated he feels we should make sure that enough money is held back for a third party engineer to inspect the project once it is constructed. Manager Martin stated that can be addressed before the project is bid and confirmed that the only thing the Commission is asked to approve tonight is the extended agreement. He clarified that staff will bring back a revised agreement expanding the scope to the Commission at a special meeting when the agreement is ready. Commissioner McGahee expressed her concern that the city does not have a commitment in writing from the Corps at this point and asked why the Corps wanted the City to do this project. Corps Project Manager/Engineer Paul Jacques confirmed that funds in the amount of \$465,000 were available in the Corps' budget in the current federal fiscal year and a modification has been through legal review and before the Corps' Chief Contracting Officer. He agreed to request a written confirmation. He stated the reason the City was asked to do this project is because the Corps already has a relationship with the City, it is the City's infrastructure, the City has contractors to do the work and the Corps finds it is the most feasible for the City to do the work. Commissioner McGahee asked if the Corps is willing to pay any costs that the City may have to pay. Mr. Jacques stated that he does not have the responsibility to answer that question but could get the answer. Commissioner McGahee stated she feels the modification has to be clear that the overall project is \$465,000 and the City's exposure is going to be capped at \$465,000. Manager Martin stated that modification will accurately reflect that we are not going to be responsible for anything over \$465,000. Mr. Jacques confirmed the Request for Service has been properly approved and vetted by the

Corps and upon acceptance by the City, a revised agreement will be prepared and delivered to the City for execution. Attorney Brandenburg stated the Commission will need to approve this concept. He also stated the Commission should approve the extended Service Agreement and the Request for Service needs to be put in its final form and submitted to the City. Commissioner McGahee stated that she feels the Commission should require a full indemnification from the Corps. Manager Martin stated that once revised, staff will present the revised agreement for Commission consideration. Mayor Gardner then read Resolution No. 2020-32 by title and asked for public comments. No public comments were heard. Commissioner Rodriguez asked if Attorney Brandenburg feels comfortable in having the Commission approve this service agreement tonight and asked for confirmation that we are not committing to anything other than that at this time. Attorney Brandenburg stated that this agreement is to formalize the service commitment which should have been done in 2017. He stated that any future commitments regarding the City spending any money would be subject to a future agreement brought to the Commission. Vice Mayor Atkinson asked if the service agreement reflects the new water & sewer rates that are going to take effect in 2021. Manager Martin stated that we bill them for the then current rates; we are not obligated to charge them anything less than the rates in effect for services rendered. Mayor Gardner noted that Work Order No. 21 was approved at the April 20, 2020 Commission Meeting by Resolution No. 2020-30.

Commissioner Rodriguez, made a motion, seconded by Vice Mayor Atkinson, to approve Resolution No. 2020-32. Vote 5 yeas, 0 nays

4. **Resolution No. 2020-33** – Resolution 2020-33 approves the award of the Lift Stations #21 & #24 Bypass Pump Improvements Contract to Boromei Construction, Inc. and authorizes the Mayor to execute the Contract on behalf of the City.

Mayor Gardner summarized Resolution No. 2020-33. Manager Martin noted that this work is part of the city's commitment to the DEP Consent Order. He stated the low bidder, Boromei Construction, was recommended for approval for the contract award by Johnson Engineering, Inc. Utilities Director Danny Williams reminded the Commission that this project is eligible for use of the I & I funds from the SRF Loan Agreement WW260421. Manager Martin stated that we hope to have the loan agreement along with the bid award for the Standby Generator & Distribution Upgrades Project on the next meeting agenda for action. He confirmed that Boromei Construction was the contractor for the Police Department Renovation Project and no objections from City staff were made on the recommended award to Boromei Construction for this project. Mayor Gardner then invited public comments. No public comments were heard.

Vice Mayor Atkinson made a motion, seconded by Commissioner Petersen, to approve Resolution No. 2020-33. Vote 5 yeas, 0 nays

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

5. **COVID-19 Update and Discussion** – City Manager Randy Martin

Manager Martin stated that Hendry County has 222 confirmed cases with 12 deaths and 38 currently hospitalized with the vast majority of cases in the Clewiston zip code. He also stated that almost 2/3 of the cases are associated with five outbreak areas, which include the two nursing homes in Hendry County, a privately managed detention facility in South Bay and two private businesses. He stated the other cases are associated with community spread. He noted that Hendry County is anything but in a decline of flattening of the curve and our neighbors are also experiencing similar conditions. He stated that we have only seen 33 cases cleared or that no longer require isolation and urged that everyone continue to stay alert and stay the course in abiding by safety precautions and restrictions. He also stated that most businesses have been allowed to reopen but gatherings are still restricted to 10 or less. He further stated that the City offices will continue to be limited until we see the numbers relax. He asked the public to follow the guidance that has been provided as we are having a significant outbreak in Hendry County. He then announced that the Hendry County Health Department in Clewiston and LaBelle and the Health Department in Moore Haven are providing free COVID-19 open testing. He stated that appointments are necessary but no pre-existing conditions are required. He also stated that more testing is needed to lower the

percentage of our positive rate which is currently over 18% compared to the state average of approximately 7%. He added that the Health Department is also offering training that will provide guidance for business owners and employees through the Chamber of Commerce and the Economic Development Council.

6. **Old Business** – Mayor Gardner expressed that she feels it is important that we move forward and address the vacant building ordinance. Manager Martin noted the ordinances for vacant buildings and the U.S. 27 corridor which were being reviewed by the Planning & Zoning Board were delayed due to the COVID-19 pandemic. He stated that he will talk to Community Development Director Travis Reese to see if we are ready to do a virtual meeting to discuss those regulations. Attorney Brandenburg stated that because the draft of the ordinance for the U.S. 27 corridor was pretty complicated, he suggested the Commission decide if there are any specific topics that they would like to address now as opposed to waiting until everything can be addressed at once. Commissioner McGahee expressed that she feels we need to move forward on both ordinances in a timely manner and requested that consideration of these ordinances be placed on the July 20, 2020 Commission Meeting Agenda at the latest. Mayor Gardner stated that she would like to go ahead and address the vacant building ordinance and pull out items from the U.S. 27 Corridor ordinance to be addressed. Commissioner Rodriguez asked when the improvement project for Ventura Avenue will begin. Manager Martin stated that the engineer and staff are reviewing ways to lower the gap between our estimate and the available dollars approved. He added that the funding is not available until July but we want to go ahead and go to bid so that we have the cost. He noted the project is scheduled for next fiscal year and we are also going to seek bids for the driveway aprons in that area. He stated the engineer is very close to completing the plans and hopefully will be able to give us an update at the next meeting on when we could go out to bid. Vice Mayor Atkinson asked Attorney Brandenburg if we know anything about the ownership of the Clewiston Canal. Attorney Brandenburg stated that he should have an update on that matter in the near future. Commissioner McGahee asked why we are waiting until July to consider adding additional professional engineers. Manager Martin stated that he had a discussion on that matter with staff and Attorney Brandenburg today and hopes to be able to move that up and get additional proposals. Attorney Brandenburg stated that he intends to update the prior solicitation for professional engineering services right away.
7. **Departmental Monthly Activity Reports** - Presented for information only.

Comments from City Manager – Manager Martin stated the new flood maps are in place and FEMA’s website is being updated with the new maps for the public to use to see how their property is affected. He reported that the City requested FEMA update their review again after the Herbert Hoover Dike Project is complete, which project is expected to positively impact our flood insurance rating and maps. He stated that all property owners will be receiving a written letter from FEMA advising them of the current change and suggested that property owners contact their insurance company to make sure that any positive changes are reflected in their bills.

Manager Martin reported that in regards to the City’s July 4th fireworks show this year, the company that provides the fireworks for the City has agreed that if the City cancels in a timely manner, no money would be lost; it would be available for next year.

Comments from City Attorney – Attorney Brandenburg reported that he has provided the Commission with an update on the Clewiston Commons lawsuit.

Comments from the City Commission – Commissioner Rodriguez stated that he feels we have to continue to follow the CDC guidelines regarding COVID-19 and expressed his appreciation for everyone’s cooperation.

Commissioner Petersen stated that the Chamber of Commerce is looking at the possibility of having drive-in movies on one of the walls of the John Boy Auditorium and hopes that the Recreation Department could join with them to get it accomplished.

Manager Martin announced that because our high school seniors are not able to have a graduation ceremony due to COVID-19 this year, U.S. Sugar wants to cooperate with the City to display a large congratulations banner to them in one of our parks.

Commissioner Petersen stated that she had the antibody test two weeks ago for COVID-19 and it showed that she had the virus within 30 days before she had the test. Because she was asymptomatic, she is thankful that she followed the rules and stayed home and did not go out in public without a mask. She urged everyone to get the testing done and wear a mask in public.

Vice Mayor Atkinson stated that the Board of Hendry County Commissioners is having their commission meetings at the John Boy Auditorium and asked the Commission to consider having their next commission meeting at the John Boy Auditorium if everyone feels comfortable. Mayor Gardner expressed that she is concerned with the county's positive virus testing rate at this time. Manager Martin agreed to poll the Commission before scheduling. Mayor Gardner stated that she will make her decision based on the data in two weeks.

Commissioner Petersen announced that the Memorial Day ceremony will be videotaped and posted online and shared by the Chamber of Commerce due to the current COVID-19 data and concerns with the virus. She stated the video will be posted on May 25, 2020 at 9:00 a.m. for viewing.

Adjournment

Commissioner Rodriguez made a motion, seconded by Vice Mayor Atkinson, to adjourn the meeting at 6:40 p.m. Vote 4 yeas, 0 nays

Mali Gardner, Mayor

Mary K. Combass, City Clerk