

**CITY OF CLEWISTON**  
**Regular Commission Meeting**  
**September 21, 2020**

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The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, September 21, 2020. The meeting was called to order at 5:00 p.m. by Mayor Gardner. Pastor Carlos Roque 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, Commissioner Melanie McGahee, Commissioner Kristine Petersen and Commissioner Julio Rodriguez. Vice Mayor Michael Atkinson was absent.

**Personnel Present:** City Manager Randy Martin, Finance Director Shari Howell, City Consulting Engineer Andy Tilton and City Attorney Gary Brandenburg.

**Personnel in attendance by telephone:** City Clerk Kathy Combass, Utilities Director Danny Williams and Compliance Manager Lynne Mila.

**Visitors Present:** Jimmy Pittman, Jerry Cochrane, Dylan Brandenburg and Donnie Hughes.

**Others in attendance by telephone:** None

**Telephone Conference Instructions on How to Watch and/or Participate:**

The City of Clewiston City 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](mailto: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 (863-254-4038, Conference ID 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, as extended by Executive Order No. 20-112, Executive Order No. 20-123, Executive Order No. 20-139, Executive Order No. 20-150, Executive Order No. 20-179 and Executive Order No. 20-193, 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.

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

**Public Comments - none**

**1. Consent Agenda**

- A. *City Commission Meeting Minutes – July 20, 2020*
- B. *City Manager Performance Evaluation*

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

Because the Final Public Hearing of the FY 2020-2021 Budget was scheduled for 5:30 p.m., Agenda Item Nos. 3, 4 and 5 were discussed next.

**PUBLIC HEARINGS**

2. **Final Public Hearing of the FY 2020-2021 Budget – 5:30 p.m.** (A copy of the FY 2020-2021 Tentative Budget was a part of the September 9, 2020 City Commission Tentative Millage & Budget Hearing Agenda and can be viewed on the City’s website and a copy of the proposed FY 2020-2021 Budget may be obtained from the Finance Department.)

- A. **Resolution No. 2020-54** – Resolution No. 2020-54 adopts a millage rate for the levy of ad valorem taxes for Fiscal Year 2020-2021. The proposed millage rate is 6.5314 mills.

Mayor Gardner stated the purpose of the public hearing was to receive input from all interested parties relative to the discussion, consideration and final approval of the City’s 2020-2021 proposed millage rate and operating budget. Finance Director Shari Howell stated the City Commission proposes a millage rate of 6.5314 mills, which reflects a change of 4.81% over the rolled-back rate of 6.2318 and a final capital and operating budget of \$31,152,955 for fiscal year 2020-2021. Mayor Gardner opened the final budget hearing and read Resolution No. 2020-54 by title. She asked for questions or comments. After hearing no questions or comments from the public or the City Commission, City Manager Randy Martin thanked and congratulated the Finance Department for their work in the budget preparation process. Director Howell stated the Clewiston City Commission, as Taxing Authority, proposes a final tax on all property located within the City of Clewiston, Florida, at the rate of 6.5314 mills for the Fiscal Year 2020-2021 and the rate of 6.5314 mills represents 4.81% increase over the 6.2318 rolled-back millage rate as defined by the Florida Statutes. She then read Resolution No. 2020-54 by title.

**Commissioner Petersen made a motion, seconded by Commissioner McGahee, to approve Resolution No. 2020-54. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

- B. **Resolution No. 2020-55** – Resolution No. 2020-55 adopts the budget for Fiscal Year 2020-2021.

Director Howell read Resolution No. 2020-55 by title.

**Commissioner Rodriguez made a motion, seconded by Commissioner Petersen, to approve Resolution No. 2020-55. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

Mayor Gardner closed the public hearing.

**ORDINANCES**

3. **Ordinance No. 2020-03 – First Reading – 5:00 p.m.** – Ordinance No. 2020-03 allows the reconstruction of single-family homes on 50’ wide lots in the R-2 and R-3 zoning districts, as long as an occupied single-family home existed on the same lot within the last seven years; amends Section 110-287, Lot and building requirements.

Mayor Gardner summarized and read Ordinance No. 2020-03 by title. City Attorney Brandenburg noted that this ordinance changes the time for people to build a single-family home on a 50’ wide lot from five years to seven years.

**Commissioner Petersen made a motion, seconded by Commissioner McGahee, to approve Ordinance No. 2020-03 on first reading and set the public hearing for October 19, 2020. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

4. **Ordinance No. 2020-04 – First Reading – 5:00 p.m.** – Ordinance No. 2020-04 modifies Section 98-189 Monitoring of discharges (b) Access to facilities, and Section 98-190 Requirements to prevent, control and reduce stormwater pollutants by the use of best management practices.

Mayor Gardner summarized and read Ordinance No. 2020-04 by title. City Consulting Engineer Andy Tilton explained the reason for the modifications was to cover some items that the Florida Department of Economic Protection requested under the NPDES/MS4 Phase II Program. He confirmed that this ordinance applied to commercial and residential areas in addition to industrial areas. Commissioner McGahee expressed that she does not want to put an additional burden on developers for the cost and the land that would be needed for the specific design features and asked if we have to implement this ordinance as it is worded. She also expressed that she feels residential development is needed. Manager Martin stated that it was his understanding that this is part of DEP's review of our permit requirements and they are stipulating that we will pursue this and this is also part of the Governor's initiative to emphasize improved water quality management. He noted the ordinance does affect new development but existing development would not be impacted to his knowledge. Engineer Tilton stated that with respect to existing developed properties only redevelopment would be impacted and if the property is more than two acres, a Water Management District permit would be required in addition to a City permit. Mayor Gardner stated that some years ago it was thought the land north of the C-21 could be used by the City for water filtration and for some of the requirements that we had within the City so that the individual property owners would not have to bear this cost. Engineer Tilton stated that if such a project could be designed and permitted, it may cost more to develop the land into a filter marsh. After further discussion, Commissioner Rodriguez asked Mr. Jimmy Pittman if he had any comments since he is a developer in the City. Mr. Pittman stated that this will just add to the cost of development. He further added that he is not saying that it is not needed, because he believes in protecting water quality. It was noted that this ordinance would affect properties with three or more living units as currently drafted. After hearing no further comments in person or via telephone, Mayor Gardner asked Manager Martin and Engineer Tilton to get together to check to see if there are any other options regarding the use of any city land for stormwater. She also suggested that they consider the property north of the C-21 to see if it could be used.

**Commissioner Rodriguez made a motion, seconded by Commissioner McGahee, to approve Ordinance No. 2020-04 on first reading and set the public hearing for October 19, 2020. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

5. **Ordinance No. 2020-05 – First Reading – 5:00 p.m.** – Ordinance No. 2020-05 focuses on excessive nutrient levels in City of Clewiston water bodies and provides for title, definitions, findings, purpose and intent, applicability, timing of fertilizer applications, fertilizer-free zones, fertilizer content and application rates, fertilizer application practices, management of grass clippings and vegetative matter, exemptions, training, licensing of commercial applicators, enforcement, penalties, appeal and severability.

Mayor Gardner summarized and read Ordinance No. 2020-05 by title. Attorney Brandenburg noted the reference to Section XII in "Section V. Applicability." of this ordinance should be changed to Section XI. Commissioner McGahee expressed that she does not like ordinances on the books that are really difficult to enforce and asked if this ordinance is necessary. Engineer Tilton stated the purpose of this ordinance is to meet state requirements for a best management action plan (BMAP) for the Caloosahatchee River basin. He also stated a benefit is that the City would receive some credit against other expenditures they might have to make in order to meet the best management action plan goals of reducing nutrients to the water. He agreed that it will be a challenge to enforce because it still allows individual residents to do their own application. He stated that it should improve the quality of the water. Mayor Gardner asked for any further comments from the Commission and the public. None were heard.

**Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to approve Ordinance No. 2020-05 on first reading and set the public hearing for October 19, 2020. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

The Final Public Hearing of the FY 2020-2021 Budget (Agenda Item No. 2) was discussed next.

**RESOLUTIONS**

6. **Resolution No. 2020-56** – Resolution No. 2020-56 adjusts the monthly electrical rates as contained in Appendix A, Section 18 of the Code of Ordinances of the City of Clewiston, pursuant to Section 74-113 of the Clewiston Code of Ordinances, to reflect bulk power cost adjustments and a rate stabilization fund adjustment.

Manager Martin reviewed the agenda report. Attorney Brandenburg stated that this resolution is consistent with the City's practice for many years; it documents how staff makes these power adjustments. Mayor Gardner read Resolution No. 2020-56 by title and asked for public comments. No public comments were heard.

**Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to approve Resolution No. 2020-56. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

7. **Resolution No. 2020-57** – Resolution No. 2020-57 approves the renewal of the 2019 Aerial Mosquito Control Contract between the City of Clewiston and Clarke Environmental Mosquito Management, Inc. for a maximum of 12 applications in the total amount of \$79,380.

Manager Martin summarized Resolution No. 2020-57 and Resolution No. 2020-58. Mayor Gardner read Resolution No. 2020-57 by title and asked for public comments. No public comments were heard.

**Commissioner Petersen made a motion, seconded by Commissioner McGahee, to approve Resolution No. 2020-57. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

8. **Resolution No. 2020-58** – Resolution No. 2020-58 approves the renewal of the 2019 Ground Mosquito Control Contract between the City of Clewiston and Clarke Environmental Mosquito Management, Inc. in the total amount not to exceed \$108,637.44.

Mayor Gardner read Resolution No. 2020-58 by title. Commissioner Rodriguez asked if there was more credit for mosquito management services for the end of this year because of the lack of activity due to COVID. Manager Martin confirmed that we will have a significant carry over which is unusual but it will hopefully help us build a reserve in these funds. Mayor Gardner asked for public comments. No public comments were heard.

**Commissioner Rodriguez made a motion, seconded by Commissioner Petersen, to approve Resolution No. 2020-58. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

9. **Resolution No. 2020-59** – Resolution No. 2020-59 authorizes a Procurement Agreement between the City of Clewiston and Florida Municipal Power Agency (FMPA) for designated FEMA reimbursement-eligible projects.

Manager Martin reviewed the agenda report. Attorney Brandenburg stated that this procurement agreement was suggested by FMPA and provides the necessary backup for the state and federal government so that there is a clear line between the funding and the procurement to make sure that in a state of emergency there wasn't any problem with the City obtaining FEMA money as a payback. Mayor Gardner read Resolution No. 2020-59 by title and asked for public comments. No public comments were heard.

**Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to approve Resolution No. 2020-59. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

10. **Resolution No. 2020-60** – Resolution No. 2020-60 approves the FMPA Change Order to the Engineering Support Services Agreement for the increased design effort and associated expenses.

Manager Martin reviewed the agenda report. Utilities Director Danny Williams explained that the Change Order was needed because the consultant group had to add a little extra work to complete additional steps the City requested they do outside the original scope. Mayor Gardner read Resolution No. 2020-60 by title and asked for public comments. No public comments were heard.

**Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to approve Resolution No. 2020-60. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

- 11. Resolution No. 2020-61** – Resolution No. 2020-61 authorizes the application for a Beautification Grant from the Florida Department of Transportation (FDOT) for the installation of 65 Royal Palms along Sugarland Highway from Lopez Street to the western terminus of the city.

Manager Martin reviewed the agenda report and stated that the scope of this grant if fully funded is anticipated to be the final phase of this project. Commissioner McGahee expressed her concern that it looks as if the trees go out to a certain point and then the project goes on with no trees for quite a distance to the City limits. She asked if we should stop the project where the trees stop in case we want to come back and look for a phase 6 and try to do the median. Compliance Manager Lynne Mila remembered talking to Chad Clouser of Edgewood about it and stated that it seems to her that he said something about the rules changing for landscaping in the median and there also being some drainage issues along that section of the highway. She offered to talk to him about it again tomorrow and report to Manager Martin if any modifications could be made. Manager Martin stated that he would still like to have authorization to submit the application and then bring it back to the Commission if there are any required changes. Compliance Manager Mila then mentioned that Mr. Clouser thinks the project could be as much as \$200,000 and the amount that we are eligible for is \$100,000. Commissioner McGahee suggested that the City consider submitting two different applications that FDOT could approve at the same time. Compliance Manager Mila stated that another possibility is, according to the grant coordinator, that FDOT will not have as many applications this cycle because of COVID and some other things that may prevent some communities from applying. She also stated that the application is due October 1 so it would be nice if we knew what we wanted to have in the design when we make the application. Attorney Brandenburg stated that when the grant is approved, the grant agreement will be coming back and the Commission could be sure that it is consistent with what they want. Commissioner McGahee stated that if only one grant is going to be approved, she feels we need to break it up into two grant applications and get them approved at the same time. Manager Martin suggested that we apply for the full \$195,000 with the expectation that the maximum amount they would award is \$100,000. Compliance Manager Mila stated that was what Darryl Richard of DOT also recommended. After hearing no further comments, Mayor Gardner read Resolution No. 2020-61 by title.

**Commissioner McGahee made a motion, seconded by Commissioner Rodriguez, to approve Resolution No. 2020-61. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

- 12. Resolution No. 2020-62** – Resolution No. 2020-62 acknowledges an application for a Florida Recreation Development Assistance Program (FRDAP) grant to the State of Florida for recreation assistance funding for the Trinidad Park Recreation Complex.

Manager Martin reviewed the agenda report. He reported that the City received \$50,000 from U.S. Sugar Corporation for playground equipment to replace the outdated equipment that was removed when Trinidad Park was renovated. He explained that this amount is not sufficient to fully replace the desired equipment level so this resolution authorizes an application for a matching grant from the state. Mayor Gardner stated that we appreciate the partnership of U.S. Sugar with the City. She then read Resolution No. 2020-62 by title and asked for public comments. No public comments were heard.

**Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to approve Resolution No. 2020-62. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

- 13. Resolution No. 2020-63** – Resolution No. 2020-63 authorizes the purchase of an AT41M Bucket Truck from Altec Industries, Inc. in the total amount of \$159,869.

Manager Martin stated that this truck will replace the truck that was damaged in a recent traffic accident and because it is one of our critical pieces of equipment. Staff would like to order it as soon as possible. Utilities Director Danny Williams stated that because it takes 12-14 weeks to build the truck and this is a crucial time of year to be down a truck, he is getting quotes for a rental until the new truck is received. He also stated that Finance Director Shari Howell is checking on the amount expected to be paid from insurance coverage resulting from the accident. Director Howell came forward and stated that we knew the truck was a crucial piece of equipment and since we do not know when we would receive the insurance proceeds, the rental was put in the budget. She noted that we know we're going to get insurance proceeds because our insurance includes replacement cost. She then confirmed the insurance policy will cover the rental as well. Mayor Gardner then read Resolution No. 2020-63 by title. Mr. Jerry Cochrane came forward and asked if the reimbursement would create a surplus in the budget. Director Howell stated that she took the insurance proceeds into consideration as revenue so there would be no surplus.

**Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to approve Resolution No. 2020-63. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

#### **MISCELLANEOUS ACTION AND DISCUSSION ITEMS**

- 14. Consideration of Solid Waste Fee Modifications** - Based upon the inclusion of additional revenue in the budget resulting from the recommended revision to solid waste collection fees, schedule a public hearing to consider solid waste fee modifications.

Manager Martin stated the budget was adopted with additional revenue projected from yet to be approved rate changes in the solid waste fee structure and in order to initiate the process, the Commission will need to schedule a public hearing for October 19, 2020 to amend the current code of ordinances and other actions necessary to modify solid waste collection rates to generate the additional revenue necessary to meet budgetary obligations. He stated that if the Commission chooses not to approve the rate, the adopted budget will need to be revisited. City Attorney Brandenburg explained that all budgets have an estimate of what the revenues are going to be and as a result of fluctuations of those revenues, the budget may have to be amended. Commissioner McGahee asked if the recommended action could include a provision to build in an automatic increase. Manager Martin stated the recommendation would be to include language in the Commission's approval to deal with that by resolution as has been done with other utility funds. Attorney Brandenburg confirmed the Commission action can be prepared to accomplish that goal. Mayor Gardner asked for public comments. None were heard.

**Commissioner Rodriguez made a motion, seconded by Commissioner McGahee, to schedule a public hearing for October 19, 2020 to amend Sec. 19 of Appendix A of the Clewiston, FL Code of Ordinances, which establishes the solid waste collection rates. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)**

- 15. Consideration of Committee's Ranking of Firms' Qualifications for Professional Services** - The City advertised for RFQ No. 2020-06 for Professional Services including: Engineering, Inspection, Surveying, Mapping, Groundwater, Surface Water, Water Quality, Utilities, Land Planning, Land Development, Landscape Architect, Transportation/Traffic on June 10, 2020.

Manager Martin reviewed the agenda report and stated the next step would be to negotiate with the four firms recommended by the committee and bring agreements back to the Commission for formal approval. He explained that the Committee feels the four firms give us flexibility. He noted the Committee recommended four because staff didn't want to recommend all or a larger number of the firms responding to the RFQ if we weren't going to use that many. Commissioner McGahee stated that she was going to abstain from discussion and voting on this agenda item due to a potential conflict. Mayor Gardner asked if the

Commission accepts the rankings and authorizes negotiations, would they need to appoint one of the firms or re-appoint Johnson Engineering, Inc. as the City Engineer as required by the City Charter. Attorney Brandenburg stated that unless the City is changing that designation, it does not have to be addressed this evening. He stated the City currently has a contract with Johnson Engineering through May 2021 with the potential of two additional extensions to May 2023 and asked if the time clock would start over again with the new contract so that all of the contracts line up at the same time. Manager Martin stated that would be his recommendation and assuming we are able to successfully negotiate a continuing services agreement with all four firms, he doesn't expect that a change in the designation of the City Engineer would be recommended. He then mentioned that the City is limited in certain contracts, particularly state contracts for grants, for using the same contractor to do the inspection services as well as the design services. He also mentioned that the City has a fifth engineering firm that we have a current agreement with that failed to meet the submission deadline for this RFP. Mayor Gardner asked for public comments. None were heard.

**Commissioner Rodriguez made a motion, seconded by Commissioner Petersen, to accept the Committee's rankings of the firms and authorize the negotiation of continuing agreements for professional services with Johnson Engineering, Inc., Stantec, Tetra Tech and Erdman Anthony. Vote 3 yeas, 0 nays (Commissioner McGahee abstained and Vice Mayor Atkinson was absent.)**

16. **Old Business** – Commissioner McGahee asked if an appraisal of the old Police Department building had been ordered and if there has been any movement on the CRA and P & Z joint meeting regarding the review of the US 27 Corridor Ordinance and Mayor Gardner requested that, because there has been some interest in development on the east side of town, staff focus on a plan for that area to see what needs to be done to move forward on redevelopment. Manager Martin stated the appraisal of the old Police Department building is on his list to do and staff is going to schedule an in-person P & Z Board Meeting regarding the US 27 Corridor Ordinance. He added that after his discussion with City Attorney Brandenburg regarding the ordinance, he feels that we could make progress if staff and management would help the process along by making some specific recommendations to share with the P & Z and CRA Boards.

City Attorney Brandenburg informed the Commission that the research of the Clewiston Canal ownership is complete to a certain extent and he does not have any recommended next steps at this time.

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

**Comments from City Manager** - None

**Comments from City Attorney** - None

**Comments from the City Commission** – Commissioner McGahee expressed that she would like to see a centralized database to easily access information on work that has been done so that work does not have to be re-created. Manager Martin stated that he and Director Howell have discussed it and will work to come up with a process for that. Mayor Gardner requested that it be added to our list of old business.

Mayor Gardner expressed that she feels the US Highway 27 DOT Vision Plan goes hand in hand with the US Highway 27 Corridor Revitalization Plan and is excited to see how that process works out. She then asked about the status of the US Highway 27 flagpole. Manager Martin stated the engineer that volunteered his services is very close to finishing the FDOT application for approval of the location that has been identified in the median on the west end near the city limit sign on the east side of the railroad tracks. He anticipates receiving the final application very soon and will go ahead and file it with FDOT. His only concern is that the height of the flagpole, the same height as the model in Moore Haven, is higher than the maximum listed in the state guidelines.

Mayor Gardner announced that South Florida Water Management Board Member Jacqui Thurlow-Lippisch and her husband visited our community this weekend. She stated that it is

always an honor to have the board members visit us to get to know our community and noted they are always invited to come back and have their meetings here.

**Adjournment**

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

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Kristine Petersen, Mayor

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Mary K. Combass, City Clerk