

CITY OF CLEWISTON
Regular Commission Meeting
October 19, 2020

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, October 19, 2020. The meeting was called to order at 5:00 p.m. by Mayor Gardner. Pastor Landy Posadas of New Life Church on behalf of the Clewiston Ministerial Association thanked Mayor Gardner and City Manager Randy Martin for providing the location for the food distribution. He then 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, IT Administrator JD Lucas, City Consulting Engineer Andy Tilton and City Attorney Gary Brandenburg.

Personnel in attendance by telephone: City Clerk Kathy Combass, Finance Director Shari Howell, Utilities Director Danny Williams and Code Enforcement Officer Debbie McNeil.

Visitors Present: Pastor Landy Posadas, Heidi Posadas, Kartrice Greaves, Laura Smith, Joaquin Almazon, Donnie Hughes and James Pittman.

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 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 Meetings:

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, Executive Order No. 20-193 and Executive Order No. 20-246, 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 – Manager Martin recommended that Consent Agenda Items F and G be removed from the agenda to allow City Attorney Brandenburg to work on the form of each of the agreements.

Public Comments – Mrs. Laura Smith announced that there is a free vaccine clinic for dogs and cats this Saturday, October 24 at 9:00 a.m. at the John Boy Auditorium.

1. Consent Agenda

- A. *City Commission Budget Workshop Minutes – July 27, 2020*
- B. *City Commission Meeting Minutes – August 17, 2020*
- C. *Event Application – Clewiston High School Homecoming Parade- October 30, 2020*

- D. *Resolution No. 2020-65 – Recognizes Florida City Government Week October 19-25, 2020*
- E. *Resolution No. 2020-66 – Amends Section 3.02 of Chapter 3 of the City of Clewiston Personnel Policy Manual*
- F. *DELETED - Resolution No. 2020-67 – Approves Service Agreement with Clewiston Chamber of Commerce*
- G. *DELETED - Resolution No. 2020-68 – Approves Service Agreement with Clewiston Museum*
- H. *Resolution No. 2020-69 – Approves Renewal of Lease with Hope Hospice and Community Services, Inc.*
- I. *Resolution No. 2020-70 – Approves Renewal of Lease with Little Disciples Learning Center, Inc.*
- J. *Resolution No. 2020-71 – Authorizes the Mayor to execute the Letters of Engagement and Examination from Mauldin & Jenkins, LLC*
- K. *Resolution No. 2020-72 – Supports an innovative pilot project by AguaCulture on Lake Okeechobee to remove invasive aquatic vegetation and unconsolidated sludge*
- L. *Resolution No. 2020-73 – Satisfaction of Lien – 427 E. Alverdez Avenue*

Consent Agenda Items F and G were pulled from the Consent Agenda as requested by Manager Martin. Manager Martin stated that staff will verify the address of the Senior Citizens Building after Commissioner McGahee stated that she thought it was incorrect on the lease with Hope Hospice. Commissioner McGahee then asked if Little Disciples used the Sikes Building year round. Mrs. Kartrice Greaves of Little Disciples Learning Center confirmed the building is used year round. Commissioner McGahee expressed that she would like to entertain the sale of that property for possible teacher housing and suggested the City get an appraisal on that property and another parcel on Central Avenue that is owned by the City. Mayor Gardner stated the CPAC building on Central Avenue is used for ballet and other similar things and noted that U.S. Sugar Corp. owns almost half the property on Central Avenue. Manager Martin agreed to further evaluate the uses of these facilities before pursuing appraisals in the future on those properties in addition to the old Police Department building which he intends to get an appraisal on. Commissioner McGahee stated that she is not opposed to approving the lease agreements at this time.

Commissioner McGahee made a motion, seconded by Commissioner Rodriguez, to approve the Consent Agenda minus Consent Agenda Items F and G. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)

PUBLIC HEARINGS

2. **Ordinance No. 2020-03 – PUBLIC HEARING - Final Reading – 5:05 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. She opened the public hearing and asked for comments from the Commission and the public. She closed the public hearing after hearing no comments.

Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to approve Ordinance No. 2020-03 on final reading. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)

3. **Ordinance No. 2020-04 – PUBLIC HEARING - Final Reading – 5:05 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 and opened the public hearing. Manager Martin stated that some minor formatting revisions have been made to Section 2 of the ordinance since the first reading of the ordinance in September. Commissioner McGahee expressed her concern with the revision to subparagraph 2 and the addition of subparagraphs 3, 4 and 5 of Section 2 of the Ordinance. She feels this ordinance

poses additional cost and expenses to projects that they, as a commission, don't have a good handle on and discourages development. Mayor Gardner stated that it was her understanding that subparagraphs 3, 4 and 5 are requirements by FDEP. Engineer Tilton added that they are additions that FDEP said were needed in the ordinance to meet their requirements. Commissioner McGahee stated she feels FDEP proposed a model ordinance which is not necessarily the law and asked us to adopt it. She asked if we have asked FDEP if we would still be in compliance if we don't include subparagraphs 3, 4 and 5. Engineer Tilton stated that he has not asked them that in that specific way but when they looked at the ordinance, they said these are the things that need to be added. Commissioner McGahee stated she thinks Highlands County's ordinance was sent to us; that language is not in the ordinances for Belle Glade, Pahokee or Okeechobee. Engineer Tilton noted that he found the language in the ordinances for Lee County and Collier County. Commissioner McGahee stated that as Manager Martin explained to her, it may be that it is coming down the pike but feels we should ask. Manager Martin explained that the state has elevated many of their requirements under orders of the current administration but individual communities do not have to update their plan until it comes up for renewal. He presumed that Highlands County had to renew theirs in 2019 and assumed other communities on an impaired waterway will have to address their plans and update them once their renewal period comes up. Attorney Brandenburg stated that the concern is that if you ask FDEP to critique this language, you are likely to get something back that is more restricted than what is being proposed here. Mayor Gardner asked if Belle Glade, Pahokee and South Bay would be covered under Palm Beach County's ordinance or would they need one individually. Engineer Tilton stated that it would depend on if they were a Phase 1 or Phase 2 community. The City of Clewiston is a Phase 2 community and generally the Phase 2 communities do theirs individually. Mayor Gardner asked if Hendry County had adopted an ordinance yet. Engineer Tilton stated they had not at this time. Mayor Gardner expressed that she feels Commissioner McGahee has brought up some good points and she would like to get more information. Attorney Brandenburg recommended the Commission postpone the public hearing to get answers to their questions. Manager Martin stated the ordinance is just one of the requirements; the City has done some of the other requirements including producing a publication on water quality and stormwater related items for distribution to the community and begun engaging with the engineer working toward the mapping element. Mayor Gardner stated the attorney's recommendation is to postpone the public hearing until we have answers to some of the questions for the final hearing to be set for the next meeting in November. She then closed the public hearing and asked for a motion to continue the public hearing to the next meeting in November.

Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to continue the public hearing to a time certain of November 16, 2020. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)

4. **Ordinance No. 2020-05 – PUBLIC HEARING - Final Reading – 5:05 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.

Manager Martin reviewed the agenda report and recommended the Commission proceed with the public hearing on this ordinance. Mayor Gardner opened the public hearing and read Ordinance No. 2020-05 by title. Engineer Tilton informed the Commission that this ordinance is not a requirement under the NPDES permit but gives the City some credit toward what the City will have to do to meet the best management action plan. He explained that FDEP provides a credit up to 6% of whatever your amount of removal is and this ordinance will give a partial credit. After hearing no further comments from the Commission and the public, Mayor Gardner closed the public hearing. A motion by Commissioner Rodriguez to approve Ordinance No. 2020-05 failed for the lack of a second. Engineer Tilton explained that the best management action plan (BMAP) has the amount of reduction that each governmental entity that had discharges to Lake Okeechobee and the Caloosahatchee River are required to do over the next fifteen years. He stated that FDEP will give credit for projects that clean the water up and will also give educational credits as in this case. They give a wide range of things that could be done and then the City gets to choose at some level how many of those they want to do. Commissioner McGahee stated that she feels the City has a problem enforcing the ordinances that we have and does not see

how the City would be able to enforce this ordinance. Manager Martin stated that if you don't earn these credits, you will be required to do more stringent things. He also stated that we are going to have to show progress and it will add cost to projects at some point if we are not meeting those requirements. If we do nothing, we will probably get more stringent enforcement from the state. Mayor Gardner stated that she feels education is important and this ordinance provides for additional education, training to staff and also gets the information out of what our best management practices are. Commissioner Rodriguez asked Engineer Tilton if he supported this ordinance. Engineer Tilton's response was that this is relatively low cost compared to doing capital projects to get the same amount of credit. He agreed the enforcement of it would be very challenging but from a cost benefit ratio, it is probably one of the least cost things the city could do to get the same amount of credit. Manager Martin stated that he feels that if we fail to take some of these actions, we may run the risk of being painted as not for water quality. Commissioner McGahee stated that she does want cleaner water but her objection is enforcement of ordinances on the books that are not enforced.

Commissioner Rodriguez made a motion, seconded by Commissioner McGahee, to approve Ordinance No. 2020-05 on final reading. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)

RESOLUTIONS

5. **Resolution No. 2020-74** – Resolution No. 2020-74 authorizes the Mayor to sign the Continuing Agreements for Professional Services between the City of Clewiston and each of Johnson Engineering, Inc., Stantec Consulting Services, Inc., Tetra Tech, Inc. and Erdman Anthony of Florida, Inc.

Manager Martin reported that we have successfully negotiated continuing agreements with all four firms. Attorney Brandenburg stated the agreement is the same document that we currently have with the two current engineering firms and has been updated with requirements that FDOT has suggested regarding a hold harmless provision as well as the CEI inspection requirement. Commissioner McGahee asked if there would be a conflict with an engineer working for the city and a private entity on the same project. Attorney Brandenburg stated the engineer is required under this contract to disclose to the City if they are working for a private entity that might somehow conflict with a particular job; the City Manager will then decide if it needs to be brought to the attention of the City Commission or engineer to take appropriate action. Manager Martin stated that staff tried to find firms on the list that are in reasonably close proximity or have a presence in the area and have experience in the area which means they are probably doing work for some people that might be doing something in the city. He also stated that we are going to have to use more than one engineer on every project as required by the state. Commissioner McGahee stated that we need to make sure the engineering firms provide the City with records and that we keep those records in an organized fashion. Manager Martin agreed. Mayor Gardner requested that we add a repository of engineering information and documentation to our list of old business so that we can keep up with all the data. Utilities Director Danny Williams stated he met with a group last week about a cloud based system for electric, water, sewer, roads and hydrants that he feels would be good for the City. Mayor Gardner asked Director Williams to bring it back to the Commission for further discussion after he and the City Manager have looked at it. She then read Resolution No. 2020-74 by title after hearing no further comments.

Commissioner Petersen made a motion, seconded by Commissioner Rodriguez, to approve Resolution No. 2020-74. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

6. **Old Business** – Commissioner McGahee asked if there was an update regarding a US 27 Corridor workshop with the CRA and P&Z Boards. Manager Martin stated that he asked Community Development Director Travis Reese to schedule a meeting and agreed to report back to the Commission once he finds out if the meeting had been scheduled. Commissioner McGahee requested the appraisals for the old Police Department, Sikes Park and CPAC properties be discussed at the November meeting.

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

Comments from City Manager – Manager Martin reported that there has been some interest in Commerce Park. He stated that he has been working to try to market the parcels that have not been sold and reviewed his report that was distributed to the Commission about the marketing efforts. He stated that if the Commission authorizes management to proceed with some of these actions, it may be necessary and desirable for the City's benefit to meet the requirements of some of these potential projects to have a called meeting once the negotiations have been finalized and the documents are ready. He reported that NQAS, the owner of Lot 4, is no longer planning to relocate; their agreement requires them to give the City first right of refusal to buy the property back from them. He does not recommend that the City buy or take the property back because of the interest we are having. He recommended the City take whatever action Attorney Brandenburg recommends to meet our obligation and give them notice that they can proceed and market the property to other buyers if they choose to sell it. He then reported that Advanced Medical Sanitation, Inc. has interest in Lot 9 and recommended that we pursue a contract to sell the property to them for the price that was established on the last two sales which is \$1.20/sq. ft. He noted that this sale will be all cash with a 10% deposit, the buyer intends to construct a \$500,000 structure and at least 10 jobs are anticipated. He stated the business is classified as light industrial and is a bio medical waste processing sanitizing and disposal company that would also have an element of personal protective equipment sales and would have minimal impact on utilities. He then recommended the City authorize the preparation of a contract to sell Lot 7 to Piping and Thermal Engineering Design, LLC with essentially the same terms. He stated the buyer expects an investment of approximately \$300,000 with 2-3 jobs associated with the facility and up to 10 in the field. This purchase would allow them to establish another location for their existing operation for lighting and manufacturing classified business activities, which also would have minimal impact on utilities. He then mentioned that he is currently evaluating and discussing multiple offers for Lots 1, 2 and 3 and has also been in discussions for Lot 10. The only parcel that he does not have an offer or any expressed interest on right now is Lot 5. He stated that he would like to get direction to proceed with the three recommendations. Mayor Gardner stated that she is not inclined to make a decision at this time because it is a lot to digest. Manager Martin stated that he would like to at least get direction on Lot 4 tonight. Mayor Gardner suggested that we look back at the All Juice sale because she believes they have first right of refusal for Lot 9. Attorney Brandenburg explained the deed restriction for Lot 4 and reminded the Commission they spent a lot of time on that when the contract was negotiated. He also stated that we are going to need to take a careful look to see if medical waste disposal is allowed under the City's current CPID ordinance or whether an amendment is necessary. He stated that in other areas, the facility comes in very small and then it is expanded into a huge medical waste incinerator type and noted that once you let it in, you could have difficulty not allowing them to expand. Manager Martin explained that this medical waste disposal facility does not incinerate; they sanitize and do their bio medical process internally within the facility with their equipment and then containerize it and take it to the landfill or proper location for disposal. Commissioner McGahee expressed that she is very excited about the possibility and Manager Martin confirmed the parties interested in Lots 7 and 9 are existing businesses in other locations. Commissioner Rodriguez stated that he wanted to see the Commerce Park full before he left his office of City Commissioner and is in support of special meetings to get that done.

Manager Martin announced that with the sponsorship of U.S. Sugar Corporation, the City is doing a socially distanced drive through trick or treat event on Halloween from 5:00 p.m. to 7:00 p.m. at the John Boy Auditorium as an alternative to the traditional door-to-door trick or treating since we are not having a Fall Festival or Trunk or Treat event.

Comments from City Attorney - none

Comments from the City Commission – Commissioner McGahee asked whose responsibility was it to maintain the area between the sidewalk and the road where the City has allowed people to pave and does maintain mean mow and pave if it is paved. Manager Martin stated that he will have the question researched.

Commissioner Petersen requested staff to look at the potholes at the end of Ventura Avenue off of Francisco. Manager Martin stated that we were hoping to wait until we got the paving project underway, but he now thinks we are going to have to address those areas with temporary patch work. He then mentioned that he did get a good update on the Ventura project today and feels we are getting close to receiving FDOT consent to seek bids.

Commissioner Petersen then asked for an update on the Code Red system for emergency notifications. Manager Martin stated that we have been discussing transitioning to Everbridge, which is the County's emergency notification system. He stated that there are some advantages according to some of the public safety officials but we have not done anything formal; all of our data is still on the Code Red system and it is operational.

Commissioner Rodriguez expressed his concern that there has not been any police protection at the last few meetings. Manager Martin explained that we have been trying to minimize the number of staff at our meetings due to COVID-19 occupancy restrictions but agreed to talk to the Police Chief about it. He then mentioned that we will be pursuing technology enhancements to make it better for public participation without being physically present.

Commissioner Rodriguez then mentioned that he knows the City is struggling with sanitation equipment repairs. Manager Martin stated that a used truck at a much reduced cost was found and he will be bringing a recommendation to the Commission soon that is promising to address the current situation. Commissioner Petersen added that she received calls about the sanitation issues and feels we need to get notifications out to the community about those things. Manager Martin agreed.

Manager Martin reminded the Commission the organizational meeting will be held in December.

Adjournment

Commissioner Rodriguez made a motion, seconded by Commissioner Petersen, to adjourn the meeting at 6:36 p.m. Vote 4 yeas, 0 nays (Vice Mayor Atkinson was absent.)

Kristine Petersen, Mayor

Mary K. Combass, City Clerk