

CITY OF CLEWISTON
Regular Commission Meeting
November 16, 2020

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, November 16, 2020. The meeting was called to order at 5:00 p.m. by Mayor Gardner. Pastor Angel Ramos of the Faith Lutheran Church gave the invocation and the audience joined in reciting the Pledge of Allegiance.

Commissioners Present: Mayor Mali Gardner, Commissioner Melanie McGahee, Commissioner Kristine Petersen, Commissioner James Pittman and Commissioner Greg Thompson.

Personnel Present: City Manager Randy Martin, City Clerk Kathy Combass, Finance Director Shari Howell, Community Development Director Travis Reese, Utilities Director Danny Williams, Public Works Director Sean Scheffler, Code Enforcement Officer Debbie Clay, Hope Wojack, Consulting Engineer Andy Tilton and City Attorney Gary Brandenburg.

Visitors Present: Julio Rodriguez, Annabelle Rodriguez, Julio Rodriguez, Jr., Alexis Rodriguez, Paula Pittman, Denise Thompson, Brandon and Whitney Walker, Melinda Abreu, Laura Smith, Joaquin Almazon, Dylan Brandenburg, Terry Gardner, Matt Beatty, Mickey and Brenda McGahee, Asa and Betty Godsey and Raoul Bataller.

Additions/Deletions/Changes and Approval of the Agenda – Manager Martin stated that a special veteran recognition will immediately follow the swearing-in ceremony and a Clewiston Elks Turkey Shoot Event Application and the Official Certification of the General Election Results will be added to the Consent Agenda.

SWEARING IN OF NEWLY ELECTED COMMISSIONERS JAMES L. “JIMMY” PITTMAN AND GREG THOMPSON AND RE-ELECTED COMMISSIONER MALI GARDNER – City Attorney Gary Brandenburg congratulated and welcomed the newly elected and re-elected Commissioners. Commissioners Pittman, Thompson and Gardner were then sworn in by City Attorney Brandenburg.

PRESENTATION OF CONGRESSIONAL VETERAN COMMENDATION TO ROBERT MICKEY MCGAHEE RECOGNIZING HIS YEARS OF SERVICE IN THE UNITED STATES ARMY BY THE TWENTY-FIFTH CONGRESSIONAL DISTRICT – Mayor Gardner, on behalf of Congressman Mario Diaz-Balart, presented the Congressional Veteran Commendation for 2020 to Robert Mickey McGahee. Mr. McGahee was honored and recognized for his wartime sacrifices and peacetime community involvement.

Public Comments – none

1. Consent Agenda

- A. *Special City Commission Meeting Minutes – August 24, 2020*
- B. *City Commission Tentative Budget Hearing Minutes – September 9, 2020*
- C. *Resolution No. 2020-67 - Approves Service Agreement with Clewiston Chamber of Commerce*
- D. *Resolution No. 2020-68 - Approves Service Agreement with Clewiston Museum*
- E. *Resolution No. 2020-76 – Acknowledges Contributions and Accomplishments of Outgoing Commissioner Julio Rodriguez*
- F. *Resolution No. 2020-77 – Acknowledges Contributions and Accomplishments of Outgoing Commissioner Michael Atkinson*
- G. *Resolution No. 2020-78 – Approves Hendry County Library Cooperative Long Range Plan 2020-2024 and Annual Plan of Service 2020-2021*
- H. *Resolution No. 2020-79 – Approves the State Aid to Libraries Grant Agreement and Certification of Hours, Free Library Service and Access to Materials Between the State of Florida, Department of State and the City of Clewiston*
- I. *Event Application – Annual Elks Turkey Shoot – November 17-19, 2020*

J. Certification of General Election Results – for information only

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

PRESENTATION OF RESOLUTION NO. 2020-76 TO OUTGOING COMMISSIONER JULIO RODRIGUEZ AND COMMISSIONER COMMENTS

Mayor Gardner read Resolution No. 2020-76 and presented the resolution of appreciation on a plaque to former Commissioner Rodriguez. On behalf of the City Commission and the citizens of the City of Clewiston, Mayor Gardner thanked Mr. Rodriguez for his 17 years of service. Mr. Rodriguez introduced his family and mentioned how his family helped and supported him. He thanked the City staff, commissioners and the citizens that continually voted to keep him in office. He stated that he knows the City is in good hands with City Manager Randy Martin and wished him good luck with his plans for the City going forward. He stated that he loves this community and it was an honor for him to represent the City.

PRESENTATION OF RESOLUTION NO. 2020-77 TO OUTGOING COMMISSIONER MICHAEL ATKINSON AND COMMISSIONER COMMENTS – Mayor Gardner noted that because of his absence, this resolution of appreciation will be presented to former Commissioner Atkinson at a later time.

PUBLIC HEARING

2. **Ordinance No. 2020-04 – PUBLIC HEARING – Final Reading – 5:05 p.m. – (The final reading of this ordinance was tabled at the October 19, 2020 Commission Meeting) -** 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 read Ordinance No. 2020-04 by title and opened the public hearing. City Consulting Engineer Andy Tilton stated that DEP had no further comments to the questions raised by Commissioner McGahee at last month's meeting. He stated the word "urban" was subsequently added to the first sentence in Section 2 of the ordinance so that it is clear that this pertains to the urban portion of the City. Manager Martin stated that a third party analysis by a firm with relevant expertise was completed at the Manager's request and this was the only suggested revision for clarification purposes. He recommended adoption as revised and noted that there are additional steps yet to be completed by the City to meet all DEP requirements. He further advised that the engineer is already working on those steps particularly mapping to meet established deadlines. Engineer Tilton confirmed the adoption of this ordinance is part of the requirements by DEP under the original NPDES comment that was issued in 2009. After hearing no further comments from the Commission and the public, Mayor Gardner closed the public hearing. Mayor Gardner recognized for the record that the affidavit of publication stated the notice of hearing was published in the Lake Okeechobee News evidencing that all requirements were followed.

Commissioner Pittman made a motion, seconded by Commissioner Petersen, to approve Ordinance No. 2020-04 on final reading. Vote 5 yeas, 0 nays

RESOLUTIONS

3. **Resolution No. 2020-80** – Resolution No. 2020-80 approves Change Order No. 01 to the contract with Electric Power Systems for emergency inspection of the 138Kv McGraw Distribution Substation Transformer.

Manager Martin noted that Resolution Nos. 2020-80 and 2020-81 are related to unexpected emergency inspection and repairs to the City's electric power system infrastructure. Utilities Director Danny Williams explained that issues were found during the scheduled maintenance work on the transformers and then again when the transformers were inspected. After hearing no further comments, Mayor Gardner read Resolution No. 2020-80 by title.

Commissioner Petersen made a motion, seconded by Commissioner Thompson, to approve Resolution No. 2020-80. Vote 5 yeas, 0 nays

4. **Resolution No. 2020-81** – Resolution No. 2020-81 approves Change Order No. 01 in the amount of \$34,060 to the contract with Southern Switch and Contacts for emergency repairs made to the distribution substation transformer.

Utilities Director Williams stated that this work order is related to the same repairs. He noted the repairs by both companies were delayed due to COVID-19 impacts. He announced that the City Utility Department is planning a city-wide electrical system maintenance outage during the period around November 30 to prepare for some extra switch work and bus work. He confirmed the transformers are more than 40 years old and are at or near the end of life. He also confirmed that some of the work is included in the capital plan and the work will also help to get the third transformer on line. He added that notice of the outage will be advertised to the public in advance and be scheduled to minimize customer impacts. After hearing no further comments, Mayor Gardner read Resolution No. 2020-81 by title.

Commissioner Thompson made a motion, seconded by Commissioner Petersen, to approve Resolution No. 2020-81. Vote 5 yeas, 0 nays

5. **Resolution No. 2020-82** – Resolution No. 2020-82 approves the amendment to Section 19 of Appendix A of the Clewiston, FL Code of Ordinances, which establishes the solid waste collection rates.

Manager Martin reviewed the agenda report and noted there is a typo on the section number that Resolution No. 2020-82 refers to. It should refer to Section 19. He stated that during the budget process, the Commission and staff spent a lot of time discussing City collection services and the fiscal condition of the solid waste fund. The budget was predicated on changes being made to the rate structure to address identified fiscal deficiencies and needs. He recommends that the Commission follow through on the action taken when the budget was adopted with the expectation that changes would be made to the solid waste fund rates. He noted that there was consideration of some adjustments to service to try to avoid as much of an increase but it was the consensus of the Commission reflected in the action taken to retain the current level of service, so this does not alter the solid waste collection days of service in any manner. Finance Director Shari Howell stated that staff reviewed comparable rates of some of the surrounding communities and noted that she feels we are not out of line with the proposed rates. Attorney Brandenburg recommended that “of the dumpster capacity” be added to paragraph 2 of the resolution as it is in paragraph 1. Manager Martin stated that if this resolution is approved, these rates would be effective January 1, 2021 and public education will be done advising of the changes. Mayor Gardner read Resolution No. 2020-82 by title.

Commissioner Petersen made a motion, seconded by Commissioner Pittman, to approve Resolution No. 2020-82 with City Attorney’s recommended amendment to Sec. 19.(a)(2). Vote 5 yeas, 0 nays

6. **Resolution No. 2020-83** – Resolution No. 2020-83 approves the South Florida Internet Crimes Against Children (ICAC) Operational Task Force Memorandum of Understanding with Broward Sheriff’s Office.

Manager Martin reviewed the memorandum of understanding and Mayor Gardner read Resolution No. 2020-83 by title.

Commissioner Petersen made a motion, seconded by Commissioner Pittman, to approve Resolution No. 2020-83. Vote 5 yeas, 0 nays

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

7. **Request to Schedule Attorney/Client Meeting** – City Attorney Gary Brandenburg requests the City Commission schedule an Attorney/Client Meeting on December 21, 2020 regarding the matter of Clewiston Commons v. City of Clewiston, et al.

Attorney Brandenburg requested the City conduct an Attorney/Client Meeting on December 21, 2020. He stated those in attendance will be Mayor Gardner, Commissioners McGahee, Petersen, Pittman and Thompson, City Manager Martin and Kyle Dudek, the attorney for the City's insurer. He added that a court reporter will also be present.

Commissioner Thompson made a motion, seconded by Commissioner Petersen, to schedule an Attorney/Client Meeting on December 21, 2020 regarding the matter of Clewiston Commons v. City of Clewiston. Vote 5 yeas, 0 nays

8. City Fire Services Special Assessment – City Manager Randy Martin

Manager Martin reviewed his memo and agenda report with the Commission. He explained that a public hearing must be held prior to January 1, 2021 in order to consider the special assessment for Fiscal Year 2021-2022. He noted that the Commission was not obligated to adopt the assessment that year; it could be done in a subsequent year. He clarified the County currently collects these revenues for their share of the fire department operating budget by use of an MSBU method but the City is paying it out of the ad valorem tax levy and this special assessment would allow the City Commission to lower the ad valorem levy. Mayor Gardner asked if there was any indication that the 2/3 current funding amount received from the County for the volunteer fire department would change. Manager Martin's response was that the funding being proposed in the draft of the new County Interlocal Agreement for fire services will still be determined utilizing a five-year rolling average based on the call volume of each jurisdiction. The expectation is that the funding is going to be very similar to the current percentage based on the numbers that were provided to the County for the past five year period. He then noted that the county attorney is re-drafting a fire services interlocal agreement that will be presented to the Commission for consideration once it is ready and has been reviewed. Attorney Brandenburg stated the basic difference with the special assessment is instead of charging for fire services on an ad valorem basis, the City would be charging for those services on a special assessment basis based on the benefit received by the assessed property. He added that the Commission would need to determine what would be the most equitable way to spread that cost over all the assessed properties and would need to make sure that those costs are assessable costs. He mentioned the Commission may want to consider hiring a consultant that is a specialist in special assessments to apportion the costs appropriately and noted the next agenda item is with regard to giving permission to allow the County MSBU for emergency services to also assess in the City. He stated he believes the County is hiring a special assessment consultant to lay out that program and it would be easy for the City to piggyback on that consultant's contract. Manager Martin stated that staff believes that this will be a more fair and equitable way for funding this essential public safety service because the "out of city" properties and "in city" properties would be treated essentially the same. He clarified the county is going to pay the 2/3 cost and the special assessment would be for the 1/3 cost and will assess the cost of providing the services with what the proposed interlocal agreement with the county stipulates utilizing a five-year rolling average based on the percentage of calls. He explained that the City property owners do not currently pay the County MSBU on the fire; the City is taxing its residents on an ad valorem basis to pay its share of the fire district costs. Community Development Director/Fire Chief Travis Reese expressed that he is in favor of the special assessment because the money would be collected per house and the fire department would not be competing with the other departments when its needs are considered at budget time. Mayor Gardner expressed her concern is that the ad valorem will be lowered with the special assessment but then the ad valorem is going to go back up to fund other service needs. She asked if there are any safeguards that could be put in place to keep that from happening. Manager Martin's response was that the Commission will be adopting the budget annually; they will be presented with a budget showing how much revenue is generated with the special assessment and how much it would allow them to reduce the ad valorem tax levy when initially implemented. He clarified that for tonight, the Commission would only be preserving the option for considering a fire special assessment in the next fiscal year. He stated the Commission only needs to announce the intentions prior to January 1, 2021 in order to give notice to the county tax collector and property appraiser. Commissioner McGahee stated that her vote is going to be no because she doesn't have enough information; she supports what we want to do but not how we are doing it. She also stated that she does not want to approve the special assessment until it is known what it will do to the low income households. Manager Martin explained that if the public hearing is not scheduled, the special

assessment would be deferred for at least another year. Commissioner McGahee stated that she does not like to make decisions under pressure. Commissioner Thompson asked if the Commission consented to the scheduling of a public hearing, would that bind, commit or cost the City any money. Manager Martin stated the only cost to the City would be the time that he, the City Attorney and others put into drafting the resolution for the Commission's consideration at the next meeting. He added that the City is not bound to implement the special assessment but we would have to notify the county property appraiser and tax collector and the state that the special assessment is being considered. Commissioner Thompson asked if there were any consequences if the Commission didn't take action on this item tonight. Manager Martin stated that other than the delay of one year, he doesn't believe there are any consequences. Commissioner Pittman stated that he doesn't think a lot of money would be spent between now and next month and feels we could probably really have a close estimate as to what the special assessment would likely be at the next meeting. Mayor Gardner asked if the special assessment could be delayed another year once the resolution to begin the process was passed. Attorney Brandenburg confirmed that it could. Commissioner McGahee requested that more information be provided to the Commission at the next meeting along with the other rates that have been increased so that the Commission will know what the citizens are going to be faced with in the next tax year. Commissioner McGahee then asked if the Commission wanted to piggyback off of the county's consultant agreement for an analysis. Mayor Gardner expressed that she feels it makes sense, since the consultant would be looking at the City anyway. Manager Martin explained that is one of the reasons for his recommendation to pursue the special assessment because we can share those costs and that part of the work would be done. Under public comment, Mr. Raoul Bataller came forward and noted that the commercial and residential activity in the Airglades area may someday create a burden on the City's ad valorem; if there is a lot of development in that area, it would be better to have something to relieve the City of the pressure. Manager Martin stated that as our five year rolling average changes, if the call volume increases in the county portion of it, then our shares would change proportionally, so if that were to occur, the County might be paying 70% or 75% based on the call volume in the future versus the current method. He added that it would only be going in the opposite direction if the City grows, then our percentage might go up. He noted that is the fairness of a five year rolling average; it would be something that either the City or the County could absorb over a five year period as change occurs.

Commissioner Thompson made a motion, seconded by Commissioner Pittman, to consent to the scheduling of a public hearing at the December 21, 2020 Commission Meeting to consider the adoption of a resolution to begin the process. Vote 4 yeas, 1 nay (Commissioner McGahee voted nay.)

9. Hendry County EMS Services MSBU – City Manager Randy Martin

Manager Martin stated that the County currently pays the entire cost of EMS service in the county including the cities of Clewiston and LaBelle and all of those costs funded through the county budget are done by the method of ad valorem taxes. He reported that during their budget discussion, Hendry County contemplated that they would like to consider using an MSBU for EMS services like what they are doing on fire services countywide. He stated that it was his understanding that if the County changes the method of collection to using an MSBU, the City must give its consent in order for them to do it inside the City. He recommended the Commission consent to the change and work together with the County so that the County will continue to pay the full cost and it would all be done on an equitable and fair basis. Attorney Brandenburg explained that the County has to have the City's permission to extend their MSBU into the city limits and they are essentially asking for an ordinance that specifies that for a period of time the City consents and will not withdraw their consent midyear. Mayor Gardner stated the County has said that this assessment will reduce the County millage rate for the offset. Commissioner McGahee expressed that she is not in favor of consenting to the change; her concern is that a year or two from now, the millage rate will go up and the special assessment will stay where it is because it is capped at so much. Manager Martin pointed out that the county can set the ad valorem in the City for collection of the revenues necessary to do EMS services without our consent now. He stated the County is obligated to their taxpayers to lower the tax rate and yet, they could continue to levy the tax rate within the City without the City's consent if they provide the service. Commissioner McGahee stated that another reason that she is not in favor of consenting to the change is that because agriculture assessments are not specially assessed, it would be a

huge deal in the county because she thinks the majority of the county is agricultural assessments, which is another reason an analysis is needed. Manager Martin stated that when you look at it from a county perspective, they have to lower the rate countywide if we consent and participate but if we don't consent, they are going to have to figure out how the City residents are going to pay their share. Otherwise, the County could not fund the service with the MSBU as desired. Commissioner McGahee mentioned that she would like to talk about the EMS services that are provided. Mayor Gardner stated that we all realize the importance of having EMS services in the City provided by the County; she would like to see it drop our millage rate and if it would be a fair and equitable assessment through the MSBU. The Mayor thinks it has to be looked at and that we should go through the process to have more discussion and any concerns the Commission has of the service level that we have right now, should be brought to the County's attention during the process. Manager Martin stated that this ordinance will require two readings; the first reading in December and the final reading in January. He explained that once the Commission consents, the collection method would change to MSBU unless the County decides not to move forward with the change in the next fiscal year budget process. Commissioner Pittman expressed that he wanted more information and hoped the entire EMS system in the county could be improved. Manager Martin stated that he has not heard any mention of changing the level of service or expanding it or doing anything different; the only thing he has heard discussed thus far is to change the method of collection to make the method of funding the service more fair and equitable. Under public comment, Mr. Raoul Bataller came forward and stated the County has had a lot of experience with special districts but they have been small and it wasn't hard for the people to know what was going on so that they could complain. He noted that this item could be a hot topic with the public. Commissioner McGahee stated that she likes to make decisions based on information. Mayor Gardner stated that tonight's decision is more than just scheduling a hearing; the Commission would be giving notice to the County that we want to go ahead and participate in the MSBU. She asked if the Commission could later decide that after the information and the analysis is received, they are not going to agree to this. Attorney Brandenburg's response was that the Commission could decide up until their January meeting that they are not going forward with the ordinance consenting but once the ordinance is adopted, you can't get out of it at least for the first year. He explained that the ordinance will have a provision that you can opt out but you have to give certain notice which means that when the County receives their consultant's report in the summer, they will be determining what the assessments are going to be based upon. Mayor Gardner stated that she would like to get more information but doesn't want to stop the conversation. Commissioner Thompson requested that someone from the County be at next month's meeting to answer questions. Mayor Gardner requested more information as soon as possible and stated that she is willing to set the first reading of the ordinance for December 21, 2020 to see what additional information could be provided. Commissioner McGahee stated the consultant is the professional on whose opinion the Commission should base their decision and the consultant's report would not be provided until after the ordinance is adopted. After further discussion, Mayor Gardner read the recommendation and asked for a motion. No motion was made. Manager Martin asked the Commission for clarity to communicate to the County. Mayor Gardner stated that more information from the County is needed in order to assess it over the next year. Commissioner McGahee suggested that Manager Martin express to the County that the City Commission would like to see the analysis first before the MSBU was established. Manager Martin asked the Commission if they were willing to consider it if he brought it back with more information. He confirmed that there was time; the City was not giving notice to the public that it is creating a special assessment; the City is being asked to consent for the County to convert the method of paying for EMS from ad valorem within the city to an MSBU in the entire county. Commissioner McGahee stated that she needs to see information so that she knows the amount the MSBU is going to cost the City's taxpayers and the amount they think the millage rate will go down. Mayor Gardner stated that this is not something that has to be adopted tonight and there is still time to receive more information. She agreed with the suggestion that someone from the county attend next month's meeting to provide more information.

Commissioner Thompson made a motion, seconded by Commissioner Pittman, to table this matter until next month. Vote 5 years, 0 nays

Manager Martin noted that the county tax agencies and the Florida Department of Revenue have to be notified adequately and the statutes provide that by mutual agreement, the date for the notification could be extended to March 1 from January 1st.

10. Old Business – Mayor Gardner requested that an update regarding additional garbage collection and assessments to properties be placed on the list of old business. Commissioner McGahee stated that she noticed the due dates were changed on some of the items listed and expressed that she feels that should be discussed at a meeting. She also expressed that she prefers that the completed items remain on the list instead of removing them and placing them on a separate list. After discussion, the consensus of the Commission was to have one report that includes the completed items. Commissioner McGahee then asked for an update on the appraisals for the old police department and CPAC buildings. Manager Martin stated that he was attempting to schedule a time to meet with an appraiser to get that done on the old police department building. He added that he had a meeting with the CPAC folks to get a better feel for what they are using that building for and their intentions going forward, but had not scheduled any appraisal discussion on that property. Commissioner McGahee asked if there was another city facility that CPAC could use because she has been looking for a place to rent for a client and wasn't able to find anything and feels the City has properties that developers could use to develop. Manager Martin stated that there is no other facility that he is aware of that would be suitable for CPAC. Mayor Gardner noted that CPAC has invested a lot into that facility with the flooring that they installed. She stated an analysis on all of the city buildings was needed and requested that it be added to the list of old business.

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

Comments from City Manager – Manager Martin reminded the public and the Commission that that organizational meeting of the Commission will be held during the next meeting as required by the Charter.

Comments from City Attorney - none

Comments from the City Commission – Commissioner Thompson expressed his appreciation for the support he received. He stated that he is humbled for the opportunity to represent the City on the Commission and is looking forward to the next two years. Commissioner Pittman also thanked the public for their support and expressed his excitement to serve the citizens of the City again. He then asked for a schedule of the Commission Meetings and expressed that he feels that workshops before each meeting would be beneficial and suggested that it be discussed at the next meeting. Manager Martin stated that the annual commission meeting schedule will be on the December 21, 2020 Commission Meeting Agenda. Commissioner McGahee agreed that workshops are needed and asked that the meeting agendas be provided to the Commission a week to 3-4 days ahead of time. Commissioner Petersen noted that she voted against not having a workshop. Mayor Gardner stated that she also appreciates the support and will continue to work hard and is excited about the future of the City. She expressed that she feels the workshops were good but felt the community was not hearing the discussions because the discussions were during the workshops which were not livestreamed. She stated that she did not want to leave the public out on some of the discussions the Commission has.

Adjournment

Commissioner Pittman made a motion, seconded by Commissioner Thompson, to adjourn the meeting at 7:09 p.m.

Kristine Petersen, Mayor

Mary K. Combass, City Clerk