

CITY OF CLEWISTON
Regular Commission Meeting
December 21, 2020

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, December 21, 2020. The meeting was called to order at 5:00 p.m. by Mayor Gardner. Pastor Gary McNealy of the Greater Friendship Baptist Church 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, Commissioner James Pittman and Commissioner Greg Thompson.

Personnel Present: City Manager Randy Martin, City Clerk Kathy Combass, Finance Director Shari Howell, Police Sergeant Fausto Rosario, Community Development Director Travis Reese, Code Enforcement Officer Debbie Clay, Compliance Manager Lynne Mila, Consulting Engineer Andy Tilton and City Attorney Gary Brandenburg. Utilities Director Danny Williams attended via telephone.

Visitors Present: Lavonne Sherrell, Joaquin Alamazon, Dylan Brandenburg, Gloria Rosen, Raoul Bataller, Terry Gardner, Ramon Iglesias, Mary Ann Martin, Jennifer Davis, Matt Beatty, Jerry Cochrane, Melvin Rosen and Greg Westberry.

REORGANIZATION OF CITY COMMISSION – Designation of Mayor and Vice Mayor by City Commission per the City Charter which states “During the first regular meeting in December of each general election year, the City Commission shall hold an organization meeting, and from their number appoint by majority vote, the Mayor and Vice Mayor”.

Commissioner Pittman made a motion, seconded by Commissioner Thompson, to appoint Commissioner Petersen as Mayor. Vote 5 yeas, 0 nays

Commissioner McGahee made a motion to appoint Commissioner Gardner as Vice Mayor. Commissioner Gardner stated that she would not accept the position of Vice Mayor.

Commissioner McGahee made a motion, seconded by Commissioner Pittman, to appoint Commissioner Thompson as Vice Mayor. Vote 5 yeas, 0 nays

PRESENTATION OF OUTSTANDING COMMUNITY SERVICE AWARD FOR 2020 – Mayor Kristine Petersen, on behalf of the City Commission, presented the 2020 Outstanding Community Service Award to Mary Ann Martin. Ms. Martin expressed her appreciation and love for her family, Ramon Iglesias, the Clewiston community and Lake Okeechobee.

PENSION OVERVIEW PRESENTATION (October 1, 2019 – September 30, 2020) - Gloria Rosen, Pension Advisor - Ms. Rosen reviewed the historical retirement plan activity from August 21, 2013 to September 30, 2020 and from August 21, 2013 to December 17, 2020. She noted the investment gain was \$6,739,324.79 as of September 30, 2020 and \$8,160,797.08 as of December 17, 2020. Commissioner McGahee expressed her appreciation to Ms. Rosen and congratulated her on the great job she is doing. Vice Mayor Thompson noted that Ms. Rosen is always available when you need her.

1. Public Comments

A. Melvin Rosen Request – Mr. Melvin Rosen came forward and expressed his concern regarding the location of the fence at 953 Sugarland Highway. He feels the fence installed by Mr. Rudd is outside Mr. Rudd’s property line and was installed to keep him and Mr. Sherrell from their boats. Mr. Lavonne Sherrell came forward and stated that there have been three small

businesses working off of that right of way for a long time. He also stated that he has been parking his equipment there for 39-40 years and doesn't have anywhere else to go. Commissioner Gardner asked if Attorney Brandenburg was going to look at this on behalf of the City so that we can respond to the commercial fishermen. Attorney Brandenburg stated that he believes the fence was drawn on the survey with a pencil and as far as the north/south segment of the fence is concerned, it was previously determined that portion of the Industrial Canal is owned by the county and he hasn't seen any permission from the county to put anything within the Industrial Canal. It appears there is an issue with the fence but a survey is needed to see where it is actually located. Manager Martin stated that it is his position that it would be the owner's responsibility to provide the survey to the City. He also stated that staff asked Mr. Rudd to roll back or undo the fence on the north/south line until this matter is resolved but he has yet to do that. Vice Mayor Thompson asked what we are going to do to enforce that. Manager Martin noted that Mr. Rudd has not refused to remove the fence on the north/south line but we will go to enforcement action if necessary. Manager Martin clarified that the 2016 survey is the only survey that has been provided to the City. Mayor Petersen stated that Manager Martin is going to ask Mr. Rudd for the appropriate survey and in the meantime, we are going to take care of the issue of ingress and egress on the north/south line. Manager Martin confirmed that was his intention as long as we get cooperation, otherwise, we will have to take additional action. Attorney Brandenburg agreed to coordinate the timeframe for the survey and Manager Martin agreed to discuss the City's options on formal action with Attorney Brandenburg if Mr. Rudd does not remove the fence on the north/south line. Commissioner McGahee asked if the City issued Mr. Rudd a permit to put up the north/south fence. Manager Martin stated that Mr. Rudd received a permit based on what he submitted. The issues with the location of the fence were determined when we went to do the inspection. He noted that Mr. Rudd did not get approval on the inspection for the current location. Attorney Brandenburg stated that he will work with Manager Martin on how to move forward.

2. Consent Agenda

- A. *City Commission Meeting Minutes – September 21, 2020*
- B. *Special City Commission Meeting Minutes – September 28, 2020*
- C. *City Commission Meeting Minutes – October 19, 2020*
- D. *Special City Commission Meeting Minutes – October 30, 2020*
- E. *Proclamation – The Agricultural and Labor Program, Inc.*
- F. *2020-2021 Commissioner Appointments*
- G. *Board of Building Commissioner Appointment and Re-appointment – Michael T. Atkinson and Jose “Pepe” Lopez*
- H. *Clewiston Library Advisory Board Re-appointment – Cynthia Carroll*
- I. *2021 Regular Commission Meeting and Tentative Workshop Schedule*
- J. *Resolution No. 2020-88 – Budget Amendments for Fiscal Year 2020-2021*

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

PUBLIC HEARING

3. **Resolution No. 2020-86 – PUBLIC HEARING – 5:05 p.m.** – Resolution No. 2020-86 approves a special assessment for City fire protection services in lieu of ad valorem taxes as the funding mechanism for providing the City's share of the Clewiston Fire Department budget.

Mayor Petersen summarized and read Resolution No. 2020-86 by title. Commissioner McGahee asked when the particulars of the special assessment would be discussed. Manager Martin explained that a study would be needed and the results would be shared with the Commission during the budget development process and then formal action would be considered before next year's budget is adopted. Commissioner McGahee stated that after watching the Hendry County Administrator's presentation of the evaluation of the fire districts at Hendry County's February 25, 2020 meeting, she feels the City's fire services need to be evaluated because it was reported that West County Fire had a reserve of \$700,000 and East County Fire had nothing and had a deficit of \$600,000 in 2017. She feels that there is a problem and does not think there is good service in mid county. Hendry County Administrator Jennifer Davis came forward and explained the reason for the deficit and stated that part of the problem will be addressed in January when a new interlocal agreement for fire services is brought to the Commission. She stated the interlocal

agreement with the City of LaBelle will also be updated so that the City of Clewiston and the City of LaBelle will have the same agreement. She reported that the current agreement basically calls for a 50/50 split however they have been splitting the budget by 67% from the County and the City has been paying the difference. She stated the County is looking to set the City's budget the same way as LaBelle with a 3 year or 5 year rolling average of actual calls. If there is an overage, it would be split accordingly. She noted the new agreement will have the higher assessment, however, if the Commission approves this to move forward with a study and consultant for the fire, the County is interested in looking at that and potentially readjusting as needed once that analysis comes out. Commissioner McGahee stated that it seems the MSBU is not being properly managed and feels a county wide study is needed because the county owes fire protection services to Montura, Pioneer and Felda and she is not sure they are getting that as good as they should. She expressed that she is not as concerned about the City's special assessment as she is with the MSBU for EMS but feels the study should be first before it is implemented. After further discussion, Manager Martin suggested that we deal with the fire assessment first and noted that the fire assessment and the MSBU for EMS are not connected. He stated that Finance Director Shari Howell did a projection taking the 10 year capital plan into consideration of what it would do to the City millage rate but noted that it is just a projection; the study would need to be done to determine exactly what rate would be necessary. He explained that annually, during the budget process, the Commission would see the results of the projections of the assessment and then get a budget proposal showing the needs of the department factoring in the capital outlay replacement and any other changes in operating costs. Next, the budget will be determined and adopted by this Commission by the deadline before the new fiscal year. Vice Mayor Thompson stated that he feels it is a lot more complicated and cumbersome than what we have now and feels that it makes it a lot easier to increase the City's special assessment and falsely lowers the ad valorem taxes. Manager Martin stated that from a budget perspective it is pretty much the same once you set those assessment rates. He also stated that the City is very transparent and has been very open in its budgeting process. He added that he doesn't feel it would be any easier to increase because the City would still be increasing what most people perceive as a tax and it has to be justified. He then explained that this is a public safety expenditure that is competing for funding in the general fund tax base if you rely on ad valorem with all other services. County Administrator Davis stated the County is looking forward to getting the analysis and updating the agreement. She clarified that the agreement does not set assessment rates; it is how we operate to make sure to have the proper fiscal control that we need to have so that it will all come together when we get the study. She explained that notice has to be given now in order to be able to do it for next fiscal year and if the Commission is not comfortable in moving forward at this time, it would be 2023 before you are able to make the assessment. After further discussion, Manager Martin stated that he recommends approval of this resolution because there is no obligation at this time. Commissioner McGahee expressed that she feels we should do the study. Vice Mayor Thompson asked what the projected cost of the study is and where would the money come from. Manager Martin stated that he believes it would be less than \$20,000 and the money would most likely come out of contingency for unexpected expenditures. Mayor Petersen opened the public hearing for public comments. Mr. Raoul Battaller came forward and expressed that he feels there are a lot of firefighters out there that expect to be paid. Manager Martin stated that the City is fortunate to have the volunteers to provide this critical service. He noted that they do receive some compensation and that through collaboration with the County, the benefits were enhanced this fiscal year at the volunteer firefighters request. He mentioned that there may be a need for full time paid personnel in this service area in the future, as it has been a trend across the country, but at this point, the City is blessed with volunteers and that is the reason our overall fire budget is much lower than our municipal peers who have transitioned to paid personnel. Mayor Petersen read Resolution No. 2020-86 by title again.

Commissioner Pittman made a motion, seconded by Commissioner McGahee, to approve Resolution No. 2020-86. Vote 4 yeas, 1 nay (Vice Mayor Thompson voted nay.)

ORDINANCE

- 4. Ordinance No. 2020-06** – Ordinance No. 2020-06 consents to Hendry County, Florida establishing a Municipal Services Benefit Unit known as the Emergency Medical Services

Municipal Services Benefit Unit to provide emergency medical services within the boundaries of Hendry County. (A discussion regarding this matter was tabled at the November 16, 2020 City Commission Meeting.)

Mayor Petersen summarized Ordinance No. 2020-06. Commissioner McGahee expressed that she is not comfortable with the approval of this ordinance without first seeing the results of the study. Hendry County Administrator Jennifer Davis mentioned that the County does not want to spend the money on the study unless the City moves forward with the adoption of this ordinance or is interested in hearing this next year. Commissioner Gardner stated her concern is that it is fair and equitable for the City's taxpayers but feels that, regardless of the final outcome, we need to know the cost of EMS for the taxpayers of Hendry County. County Administrator Davis explained that EMS is a little different than fire because the County has the east and the west boundary lines for fire and you have basically one department for EMS that serves the entire county. She stated that from a legal perspective, the cities have to opt in or consent in order for the County to consider an EMS MSBU and in order to assess the assessment, the County has to prove legal benefit. She also stated she thinks CARES Act funding could possibly be used to fund the study with board approval but the County was not looking to ask the City to pay for it. The County Commissioners are planning to fund the EMS study themselves and are just asking for the opportunity to be able to potentially make this assessment happen for next fiscal year. Attorney Brandenburg explained that if this ordinance was adopted, the City would be in for one year unless the City adopts an ordinance and transmits it to the County prior to May 1. County Administrator Davis stated that the County does not want to create an MSBU for it just to be rescinded the following year; they are going to ask for the City's input and opinion and all of that will be considered before the County makes a decision. Manager Martin added that the City would be able to monitor that process and provide input to the County during the public hearing process. Commissioner McGahee feels the decision should be made after the information from the study is received because this is not a critical emergency situation. Attorney Brandenburg confirmed that the County would have the control to decide what properties would and would not be exempt. He then explained that assessments for EMS charges are allowed only for rural areas of opportunity which designation expires on June 27, 2021 unless it is extended again by the governor so the County may lose their ability to impose this at all on June 27, 2021. He feels that makes the study more important to establish a specific benefit to properties if you can and recommended the Commission take a thorough look at the study before proceeding. Manager Martin stated that he believes the County will heed our concerns and considerations once the results of the study are known and if they are allowed to proceed with the City's consent at least for the first year, they would heed it and not perpetuate something that the City has the option of withdrawing its consent after the first year. Commissioner McGahee stated that she is not in favor of this ordinance but is in favor of a study as she would like to see the information first. Commissioner Gardner stated that she would like to see the report. Commissioner Pittman stated he would be in favor of moving forward with the ordinance and would like to see the study. Vice Mayor Thompson stated that he could not support the ordinance at this time but would like to see a study. He also stated that he believes the citizens voted for the Commission to make these decisions and not hand them over to somebody else. Mayor Petersen stated the recommendation is to approve the ordinance. She thinks the appropriate thing to do is go ahead and move forward with the first reading and see what the vote is and then have the discussion of where to go from there. Manager Martin's response to Vice Mayor Thompson's comment was that EMS is a service not provided by the City. It is totally funded by the County. City taxpayers are required to pay a share of that cost which may or may not be fair based on the ad valorem method of funding. He feels it is an advantage to the City for this to go forward because we may find that there is a more equitable or fair method of funding the provision of this essential service than what is being done now. He added that the County cannot proceed in choosing this funding method without the consent of LaBelle and Clewiston and noted that he was advised that LaBelle approved it on first reading and will take final action in January. Mayor Petersen asked for public comments; none were heard.

Commissioner Pittman made a motion to approve Ordinance No. 2020-06 on first reading and set the public hearing for January 25, 2021. Motion died for lack of a second.

County Administrator Davis stated that with the City's consent, the County will proceed with the study and bring the results back to the City Commission. Attorney Brandenburg clarified

that the County does not need the City's approval to do the study but the City could say that they encourage them to do the study.

Commissioner Gardner made a motion, seconded by Commissioner McGahee, to move forward with the study. Vote 5 yeas, 0 nays

Mayor Petersen expressed her appreciation to Manager Martin and County Administrator Davis for the work they have done collectively and for the positive working relationship they are developing.

RESOLUTION

- 5. Resolution No. 2020-87** – Resolution No. 2020-87 approves City of Clewiston Purchase Order No. 22048 authorizing the purchase of 120 GE Evolve LED Series High Output Streetlight Fixtures in the total amount of \$26,928.00 from GRESCO Utility Supply, Inc.

Mayor Petersen summarized and read Resolution No. 2020-87 by title.

Vice Mayor Thompson made a motion, seconded by Commissioner Pittman, to approve Resolution No. 2020-87. Vote 5 yeas, 0 nays

Vice Mayor Thompson noted that this purchase is funded by FMPA.

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

City Attorney Brandenburg requested the Attorney/Client Meeting be held next.

- 11. Attorney/Client Meeting** – This meeting was requested by City Attorney Gary Brandenburg at the November 16, 2020 City Commission Meeting regarding the matter of Clewiston Commons v. City of Clewiston, et al.

The City Commission Meeting recessed at 6:45 p.m. for the Attorney/Client Meeting.

The City Commission Meeting reconvened at 7:55 p.m. after the Attorney/Client Meeting.

- 6. Old Business** – Commissioner McGahee expressed that she feels the reports provided by the Finance Department are hard to follow and would like to see a check register each month. Manager Martin stated that he will meet with Finance Director Howell and provide feedback on that request. Commissioner Gardner requested that addresses be provided on the final monthly inspection report. Commissioner Pittman expressed that he would like to see a report on the animal control citations and the amount that is collected along with a report of the donations that are received.
- 7. Departmental Monthly Activity Reports** - Presented for information only.
- 8. Comments from City Manager** – “State of the City” Update

Manager Martin stated that it has been his practice in his management experience to give a “State of the City” update to document facts and accomplishments that city officials can look back on and compare. He noted the update was sent out in the City's monthly FYI. He stated that this year was challenging as the pandemic affected everything in our community and society and the reality is that priorities change and things happen that are unexpected. He then reviewed his report on the “State of the City” and noted that the positive aspects of the report were all achieved as a result of a team effort and expressed that he is optimistic for 2021.

- 9. Comments from City Attorney** - none

- 10. Comments from the City Commission** – Commissioner McGahee thanked Manager Martin for his leadership and hard work. She feels he did a good job in summarizing where we are and where we want to go in the State of the City report.

Commissioner Gardner wished everyone a Merry Christmas and Happy New Year, thanked all essential workers and expressed that she is proud of our community and looks forward to 2021.

Vice Mayor Thompson stated that he is glad to see the accomplishments of the City this year and expressed his thanks to Commissioner Gardner for her work.

Commissioner Pittman agreed with Vice Mayor Thompson and stated that he feels we need to update our personnel policy and social media policy. He then wished everyone a Merry Christmas and Happy New Year.

Vice Mayor Thompson added that he feels the City should recognize Bubba Ramer for everything he did for the community. He suggested the CPAC building be dedicated to and named after him. Mayor Petersen stated that she had the same thought with Trinidad Park. Vice Mayor Thompson requested that a discussion on this matter be placed on an agenda.

Mayor Petersen wished everyone a Merry Christmas and Happy New Year.

Adjournment

Commissioner Pittman made a motion, seconded by Vice Mayor Thompson, to adjourn the meeting at 8:28 p.m. The motion was approved unanimously.

Kristine Petersen, Mayor

Mary K. Combass, City Clerk