

CITY OF CLEWISTON
Regular Commission Meeting
August 16, 2021

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, August 16, 2021. The meeting was called to order at 5:01 p.m. by Mayor Petersen. Mayor Petersen led the audience in reciting the Lord's Prayer and the Pledge of Allegiance.

Commissioners Present: Mayor Kristine Petersen, Vice Mayor Greg Thompson, Commissioner Mali Gardner, Commissioner Hillary Hyslope and Commissioner James Pittman.

Personnel Present: City Manager Randy Martin, City Clerk Kathy Combass, Finance Director Shari Howell, Interim Police Chief Tom Lewis, Police Commander Dan Brophy, Community Development Director Travis Reese, Utilities Director Danny Williams, Compliance Manager Lynne Mila, Consulting Engineer Andy Tilton and City Attorney Gary Brandenburg.

Visitors Present: Lavonne Sherrell, Laura Smith, Roly Gonzalez, Matt Beatty, Nardina Johnson, Terry Gardner and Dylan Brandenburg. Navid Nowakhtar and Bob Dumas attended via telephone.

Additions/Deletions/Changes and Approval of the Agenda – Manager Martin recommended that an update on the American Recovery Plan Act (ARPA) Agreement be added to the agenda due to the need for timely submission in order to receive the City's share of the funding as timely as possible. Mayor Petersen stated the update will be added as Agenda Item No. 7A.

Public Comments – Mrs. Laura Smith of 206 Ridgewood Avenue came forward and announced that due to the recently reported local rabies case, Kathy Irey managed to arrange a free vaccine clinic to be held on September 18, 2021 at 9:00 a.m. She stated that Justin Bartlett Animal Hospital will be providing free vaccinations and noted that they will also vaccinate cats. She added that they are still trying to secure a venue and will be advertising the event.

Mr. Roly Gonzalez came forward and announced that he is a full time resident of the City of Clewiston as of last week. He stated that he has brought AAA Roadside Assistance to Clewiston and the surrounding areas of Harlem and Montura but after talking to the Clewiston Police Department about a partnership for that service and obtaining all the licenses required by the City to move forward, it was realized that the City's ordinance requires the inspections to be certified by state highway patrol. He stated that Florida Highway Patrol (FHP) told him that they will not certify the inspections because Clewiston is a municipality and is responsible for its own inspections; he needed to contact the City. He feels the Clewiston Police Department is able, has the knowledge and should do the inspections. He reported the Hendry County Sheriff's Office does inspections once a year with FHP because Hendry County works along with FHP and Hendry County's standard operating procedure requires a business to operate in Hendry County for one year. He stated he has leased offices on 330 Bond Street and 330 Sugarland Highway for his business. He also clarified that the City's ordinance does not prohibit him from doing the AAA service in Clewiston or Hendry County; it only prohibits him from being on rotation for City tows. Chief Lewis confirmed that he only has one business currently that provides that service. Manager Martin suggested that Chief Lewis submit a report to the Commission through him for consideration. His preliminary interpretation is that it would require an ordinance amendment to effect his request. It was noted that once the business has operated for one year in Hendry County, Mr. Gonzalez would not have to worry about it. Commissioner Pittman stated that it would make sense for the City to get in line with FHP and let them do the work and asked Manager Martin and Attorney Brandenburg to look at that aspect.

Mr. Lavonne Sherrell came forward and expressed his concern that we may never see clean water in Lake Okeechobee again. He provided a copy of a letter to the Commission that was forwarded to the U.S. Army Corps of Engineers (USACE). He assumed that USACE will forward it to South Florida Water Management District. He stated that he wanted to make sure the Commission had a copy and wanted everyone to know what the water managers are doing. He stated that everyone wants clean water and vegetation back. Commissioner Gardner asked what

the impact is of spraying on Lake Okeechobee. Mr. Sherrell stated that he does not know the impact but is sure that it has some impact and knows the hyacinths are a continuous problem and feels the nutrients that go into the lake are part of the problem. He added that low water is necessary for some of the vegetation to grow back; when the water stays high for so long, the vegetation is gone and will not grow back.

1. **Consent Agenda**

- A. *City Commission Workshop Minutes – May 3, 2021*
- B. *City Commission Meeting Minutes – July 19, 2021*
- C. *Special City Commission Meeting Minutes – July 29, 2021*
- D. *Resolution No. 2021-77 – Approving use of funds through the Edward Byrne Memorial JAG Program in the amount of \$5,608.01*
- E. *Event Application – HRMC Pink Warriors Walk – October 23, 2021*
- F. *Event Application – The Market on Bond – October 16, 2021, November 20, 2021, December 18, 2021, January 15, 2022, February 19, 2022 and March 19, 2022*
- G. *Proclamation – Florida Lineworker Appreciation Day – August 26, 2021*

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

PUBLIC HEARINGS

2. **Ordinance No. 2021-01 – Public Hearing - Final Reading – 5:05 p.m.** – Ordinance No. 2021-01 adopts an amendment to the City of Clewiston Comprehensive Plan to change the text of the City’s current 10-Year Water Supply Facilities Work Plan.

Mayor Petersen summarized and read Ordinance No. 2021-01 by title. No citizen comments were heard.

Commissioner Gardner made a motion, seconded by Vice Mayor Thompson, to continue the public hearing and final reading of Ordinance No. 2021-01 to September 20, 2021 to allow more time to receive comments from the review agencies. Vote 5 yeas, 0 nays

3. **Ordinance No. 2021-02 – Public Hearing - Final Reading – 5:05 p.m.** - Ordinance No. 2021-02 amends the Future Land Use Map of the Comprehensive Plan; providing for the reclassification of two lots of real property located in Block 451 from Multi-Family-Two Family to Commercial to meet the standards of a Small Scale Amendment.

Mayor Petersen summarized Ordinance No. 2021-02 by title. Mrs. Laura Smith came forward and stated that she owns property across from the rentals and was advised that she can have the opportunity to provide input into discussions of the design of the parking lot. She stated that she understands the need for the extra parking and thinks they will be able to come to an agreement on the plan. Commissioner Gardner stated that she hopes the oak trees can be saved and Ms. Nardina Johnson confirmed the oak trees will be saved. Mayor Petersen then read Ordinance No. 2021-02 by title.

Commissioner Hyslope made a motion, seconded by Commissioner Gardner, to approve Ordinance No. 2021-02. Vote 5 yeas, 0 nays

4. **Ordinance No. 2021-03 – Public Hearing - Final Reading – 5:05 p.m.** – Ordinance No. 2021-03 amends the Official Zoning Map by rezoning real property located in Block 451 from two-family residential use (R-2) District to Commercial Use (C) District.

Mayor Petersen summarized and read Ordinance No. 2021-03 by title. No citizen comments were heard.

Commissioner Pittman made a motion, seconded by Commissioner Hyslope, to approve Ordinance No. 2021-03. Vote 5 yeas, 0 nays

RESOLUTIONS

5. **Resolution No. 2021-78** – Resolution No. 2021-78 approves the Advanced Metering Infrastructure (AMI) Contract between Sensus USA Inc. and the City of Clewiston contingent upon approval of financing from the FMPA “pooled loan” project.

Mayor Petersen summarized Resolution No. 2021-78 and noted that representatives from FMPA, Quanta and Sensus were on the phone. Commissioner Pittman asked what cost would the City incur for SAAS and NAAS services after 10 years. Navid Nowakhtar with FMPA explained that at the end of that term, the City would have the option of renegotiating with Sensus or take on certain aspects of that service. Commissioner Pittman asked if they had a lot of customers that retain them after 10 years. Bob Dumas with Quanta stated that Sensus is one of the four largest suppliers of AMI systems in the world and the largest in the water area so it is almost certain that they will stay in this business, if not, their successor company would provide the service. He has not seen any failures of a managed services system on behalf of Sensus and is not aware of anyone exiting their managed services program. Commissioner Gardner stated that this is exciting and feels it is important and the timing is right. Manager Martin mentioned that Attorney Brandenburg had a major hand in the preparation of the contract and asked him if he had any comments. Attorney Brandenburg stated that it was a pleasure to work with everyone as well as the City staff on this project element. Manager Martin asked if Mr. Dumas or Mr. Nowakhtar had any comments to share on how much smoother this contractual discussion went than a previous negotiation in another unnamed community. Mr. Dumas stated that in the case of the City’s peer community to the north, they faced a fair amount of negotiating pain. In Clewiston’s case, Sensus had a good template on a municipal level to move forward so it was nowhere near as difficult a negotiation. Mr. Nowakhtar agreed. Mayor Petersen then read Resolution No. 202-78 by title.

Vice Mayor Thompson made a motion, seconded by Commissioner Pittman, to approve Resolution No. 2021-78. Vote 5 yeas, 0 nays

After the vote, Manager Martin thanked the Commission and stated that he hopes to have the financing back to them for approval within 30 days.

6. **Resolution No. 2021-79** – Resolution No. 2021-79 approves the agreement between Florida Municipal Power Agency and the City regarding the City’s Advanced Meter Infrastructure (AMI) Deployment – phase 3.

Mayor Petersen summarized and read Resolution No. 2021-79 by title. No citizen comments were heard.

Vice Mayor Thompson made a motion, seconded by Commissioner Hyslope, to approve Resolution No. 2021-79. Vote 5 yeas, 0 nays

RESOLUTION REGARDING COMMERCE PARK

7. **Resolution No. 2021-80** – Resolution No. 2021-80 approves the Contract for Sale and Purchase between the City of Clewiston and Beyond Land LLC of Lot 1, Clewiston Commerce Park.

Mayor Petersen summarized and read Resolution No. 2021-80 by title. No citizen comments were heard.

Commissioner Pittman made a motion, seconded by Vice Mayor Thompson, to approve Resolution No. 2021-80. Vote 4 yeas, 1 nay (Commissioner Gardner voted nay.)

Before the vote, Commissioner Gardner expressed her concern with the Buyer being a new company and explained that she is uncomfortable because she has no idea of their actions or activity. Commissioner Hyslope stated that she had the same concerns as far as the type of waste that they would produce. Manager Martin stated that it is his understanding that this business would be taking raw materials and producing pharmaceutical type products that will be regulated by the same agencies that regulate other park users. By contrast, the other

previous proposal that the Board subsequently rejected was a company that was going to bring in waste from offsite to the site, process it and then dispose of it through appropriate landfilling. He sees a significant distinction in the two types of operations. He stated that the City is acting upon a contract to purchase the property, but the buyer will still have to meet the zoning and all regulatory requirements to build any development there. Commissioner Gardner stated her concern is that it is a pharma laboratory focused on research and development and she has no idea what that means. She feels the reputational risk for the community, with it being a farming community and producing things that go on the table, is very concerning; therefore, she is not going to support the sale. After further discussion, Commissioner Hyslope asked if they could ask for more time to further look into this concern. Manager Martin shared that he has had other interests in the property but none that have reached this level. He knows that Beyond Land wants to buy the property regardless of which business goes there. Commissioner Pittman stated that he feels it would be okay as long as the City can regulate the development order. Attorney Brandenburg confirmed that the City does not give away its zoning authority at all by entering into the contract but the Commission should realize that there are certain categories within the zoning ordinance where people are allowed to move forward with certain uses and other ones that are conditional uses.

After the vote, Manager Martin reported that all lots are now under contract with most of them closed. Mayor Petersen thanked Manager Martin and staff for their work to get these lots sold.

- 7A. Manager Martin announced that, as previously shared with the Commission, he has received confirmation from the Florida Department of Environment Protection, that American Rescue Plan Act (ARPA) funding will be distributed to non-entitlement units of government, of which Clewiston is included. It was first estimated that the City would receive around \$3.4 million but the actual amount is now set at \$4,016,846. The funds will be distributed in two distributions. He understands the first distribution will be received approximately two weeks after the agreement is received by the state. He reviewed the agreement and categories of uses and explained that this action basically accepts the funding on behalf of the City. He then mentioned that it is his understanding that the amount the City receives could increase because some communities have actually not accepted funding and any funds that are not accepted will also be distributed. He stated the City will have until December of 2024 to spend and obligate the funds and that in order to expedite the agreement, the Commission could authorize, approve and accept the agreement subject to further review of the document by the City Attorney. He added that the sooner the City moves to accept it, the sooner the City will get this year's installment and one year later get the second payment. Commissioner Pittman asked if the funds could be used to pay for the AMI Project. Manager Martin stated that he is quite sure that it could not be used for electric but could be used for water and sewer. The only concern is whether the project is considered to be an operating expenditure rather than a capital expenditure. It is his opinion that the City has a strong argument that it is a capital expenditure particularly since the project has a longer term life expectancy. The Manager stated that he and staff will be further evaluating before a formal recommendation on funding is made. He also stated that he will check with FMFA to see if it would have any impact on the financing terms and provisions that has been approved preliminarily.

Vice Mayor Thompson made a motion, seconded by Commissioner Gardner, to approve the application subject to legal review. Vote 5 yeas, 0 nays

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

8. **2021 Legislative Session – Required Municipal Updates – City Attorney Gary Brandenburg**

City Attorney Gary Brandenburg's partner, Attorney Dylan Brandenburg, stated that he had provided the Commission with a summary update of the 2021 legislation that had an effect upon municipalities at the last meeting. He then he reviewed some of the updates and the steps that are being taken to ensure that the City is complying with the new regulations. He stated HB 59 will require an amendment to the Comprehensive Plan. He stated that Code Enforcement Officer Debbie Clay is aware of the new change in SB 60 and has already

included this new rule in her policies and procedures. Related to HB 403, in order to bring the City's code more in line with the State requirements, he advised they will be bringing a proposed ordinance amendment for the Commission's consideration regarding home businesses. He then reviewed HB 667 and HB 1059 which will require an update of the building department's policies and procedures. Commissioner Pittman asked if HB 667 is going to require the City to update any hardware or computers. Community Development Director Travis Reese responded that it would require updates but some of those had already been approved in last year's budget. After further discussion, Commissioner Pittman asked if the City could require total digital plan documents from contractors and City Attorney Brandenburg's response was that we could. Attorney Dylan Brandenburg confirmed that they would be looking at and keeping up with the other updates on the list to make sure that the City is doing what is needed to comply.

9. **Old Business** - Manager Martin stated that as he mentioned in his weekly update, he did have a meeting with the league representatives on the update of the City's personnel policies and discussed a couple of them that have come up recently such as the take home and passenger vehicle policy review. The League contact agreed to share examples from other municipalities.
10. **Departmental Monthly Activity Reports** - Presented for information only.

Comments from City Manager - none

Comments from City Attorney – City Attorney Gary Brandenburg stated that the City did quite a bit of work with regard to FDOT on the future look of the main street and pointed out that Martin County just did a revamp of a road similar in look to the City's corridor; it is Map Road between Indian and Monterrey. He suggested the Commission members take a look at it. He then stated that he has some additional work that he has been doing but is 100% devoted to Clewiston. He further stated that because he has taken on additional work somewhere else, does not mean that it will lessen their standard or amount of service the firm provides to the City. He then thanked the Commission for their support.

Comments from the City Commission – Commissioner Gardner thanked City Attorney Brandenburg and expressed her appreciation for his experience and knowledge in his work on the AMI Project contract. She also expressed her appreciation to the men and women of the armed services and their families.

Mayor Petersen added that she had expressed to her students that it has to be hard today to be a gold star family but hopes that those families understand that their loved ones were good soldiers and did what their country asked them no matter how it turned out.

Commissioner Pittman asked for an update on the ordinance regarding the firefighter pension. Manager Martin stated that he talked to representatives of the league who actually offers that same service for their input. He reported that October 1 is not a drop dead date but the longer you wait the longer wait before the City would receive a share of the state funding distribution. The Manager indicated a goal to have it ready at the September meeting when the budget is scheduled to be approved. Commissioner Pittman stated that he feels this item should be added to the action item list.

Vice Mayor Thompson stated that this is an exciting time for Clewiston. Staff has worked hard and he is thankful to be a part of it.

Adjournment

Commissioner Pittman made a motion, seconded by Commissioner Gardner, to adjourn the meeting at 6:32 p.m. Vote 5 yeas, 0 nays

Kristine Petersen, Mayor

Mary K. Combass, City Clerk