



# Board of Adjustment Minutes

September 23, 2024  
7:05 PM

25440 West Newberry Road  
Newberry, Florida 32669

## QUORUM CHECK

Chair

Mayor Jordan Marlowe

Board Members

Commissioner Mark Clark

Rick Coleman

Monty Farnsworth

Tim Marden

Tony Mazon

Executive Director

Mike New

City Clerk

Judy Rice

City Attorney

Scott Walker

Staff:

Director of Community Development

Stacey Hectus

Principal Planner

Jean-Paul W. Perez

Senior Planner

Uma Sarmistha

Staff Specialist

Jeannene Mironack

## CALL TO ORDER

Mayor Marlowe called the meeting to order at 9:30 PM.

## APPROVAL OF AGENDA

**Motion to approve the agenda as published was made by  
Commissioner Marden, Seconded by Commissioner Clark.**

Mayor Marlowe asked for public comment. There was none.

**Voting Yea: Commissioner Clark, Commissioner Coleman,  
Commissioner Farnsworth, Commissioner Marden,  
Commissioner Mazon**

**MOTION PASSED 5-0**

## APPROVAL OF MINUTES

### 1. June 24, 2024, Board of Adjustment Meeting Minutes

**Motion made by Commissioner Mazon, Seconded by  
Commissioner Marden.**

Mayor Marlowe asked for public comment. There was none.

**Voting Yea: Commissioner Clark, Commissioner Coleman,  
Commissioner Farnsworth, Commissioner Marden,  
Commissioner Mazon**

**MOTION PASSED 5-0**

## **PUBLIC HEARINGS AND ORDINANCES**

### **2. O2B Kids Site and Development Plan.**

*Quasi-Judicial Public Hearing: Resolution 2024-14/Application SDP 24-04, an application by CHW, Agent, for RWM Newberry LLC, Owner, for Site and Development Plan Approval to allow construction of a 11,060 square foot day care facility, on a portion of Alachua County parcel control number 01902-000-000.*

Mayor Marlowe reviewed the quasi-judicial procedures and read through the presentation order.

Attorney Walker read Resolution 2024-14 by title only.

Clerk Rice swore in City Manager Mike New, PE; Senior Planner Uma Sarmistha; Principal Planner Jean-Paul Perez; Christopher Gmuer, PE; Walker Owen, PE, CHW Professional Consultants; and Brian Snyder, PE, CHW Professional Consultants.

Mayor Marlowe asked for ex parte communication on the application.

### **ROLL CALL**

**Commissioner Clark: NONE**

**Commissioner Coleman: NONE**

**Commissioner Farnsworth: NONE**

**Commissioner Marden: NONE**

**Commissioner Mazon: NONE**

Senior Planner Uma Sarmistha presented a PowerPoint of the staff overview for the application. She distributed a letter of concern opposing the application to the dais. (A copy is attached to these minutes.)

Walker Owen, PE, CHW Professional Consultants waived applicants' presentation. It was noted that he and Brian Snyder, PE, were present to respond to questions.

Senior Planner Uma Sarmistha presented a PowerPoint of the staff recommendation for the application.

There was no third-party intervenor present.

Mayor Marlowe asked for public comment, there was none.

Discussion ensued.

There was no cross examination or final arguments.

Commissioner Farnsworth recused himself.

Senior Planner Uma Sarmistha responded to questions.

Walker Owen responded to questions.

Attorney Walker advised the Commission that their decision must be based upon substantial and competent evidence.

**Motion to approve Resolution 2024-14/Application SDP 24-04 was made by Commissioner Mazon, Seconded by Commissioner Clark.**

Mayor Marlowe asked for public comment. There was none.

**Voting Yea: Commissioner Clark, Commissioner Coleman, Commissioner Marden, Commissioner Mazon**

**Voting Abstaining: Commissioner Farnsworth**

**MOTION PASSED 4-0**

**3. Whittle's Mini Storage site and development plan.**

*Quasi-Judicial Public Hearing: Resolution 2024-31/ SDP 24-02, an application by Gmuer Engineering, agent, on behalf of Whittle's Mini Storage LLC, owner, for a Site and Development Plan for an additional 30,000 square feet of self-storage facility use and related site improvements on a 31-acre site located at 27240 West Newberry Road; Alachua County Tax Parcel 02512-001-016.*

Mayor Marlowe confirmed that no one had entered the room after his initial review of the quasi-judicial procedures and presentation order.

Attorney Walker read Resolution 2024-31 by title only.

Mayor Marlowe asked for ex parte communication on the application.

**ROLL CALL**

**Commissioner Clark: NONE**

**Commissioner Coleman: NONE**

**Commissioner Farnsworth: NONE**

**Commissioner Marden: NONE**

**Commissioner Mazon: NONE**

Principal Planner Jean-Paul Perez and Chris Gmuer, PE, remained sworn.

Principal Planner Perez presented a PowerPoint of the staff overview for the application.

Principal Planner Perez presented a PowerPoint of the staff recommendation for the application.

Christopher Gmuer, PE spoke. He stated that he was present to respond to questions.

There was no third-party intervenor present.

Mayor Marlowe asked for public comment, there was none.

Discussion ensued.

Christopher Gmuer responded to questions.

There was no cross examination or final arguments.

Commissioner Farnsworth recused himself.

Attorney Walker advised the Commission that their decision must be based upon substantial and competent evidence.

**Motion made by Commissioner Mazon, Seconded by  
Commissioner Coleman.**

Mayor Marlowe asked for public comment. There was none.

**Voting Yea: Commissioner Clark, Commissioner Coleman,  
Commissioner Marden, Commissioner Mazon**

**Voting Abstaining: Commissioner Farnsworth**

**MOTION PASSED 4-0**

**TOPICS FROM MEMBERS FOR DISCUSSION**

Mayor Marlowe made comments.

**MEETING ADJOURNMENT**

The meeting was adjourned at 10:04 PM.

Signed and approved on this 12th day of November 2024.

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Mayor Jordan Marlowe, Chair

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Judy S. Rice, City Clerk

Attachments (3): Letter of concern opposing Application SDP 24-04, O2B Kids Site and  
Development Plan, Resolution 2024-14  
Commissioner Farnsworth's Form 8Bs

Uma Sarmistha, PhD, Senior Planner  
City of Newberry  
Planning and Economic Development  
25440 West Newberry Road  
Newberry, FL 32669

Dear Dr. Sarmistha,

This letter is in response to the memorandum received regarding the proposed Land Use Action meeting concerning a request to build an O2B Kids Daycare facility on Newberry Lane and NW 238<sup>th</sup> Terrace in Newberry, FL.

I received the memorandum because my home resides within 1000 feet of the planned daycare and I am writing to express my opposition for several reasons.

First, Land Use Value:

The land in the proposal currently has a Land Use Value of 'Vacant Residential' not 'Commercial'. This is in keeping with the residential neighborhood that adjoins this property.

Second, the significant increase in vehicular traffic:

Our neighborhood, Newberry Oaks, is comprised of older, established homes with many retired or semi-retired residents. Upon review of the subdivision map on the Alachua County Property Appraiser's website, it appears that the homes that will be most affected due to the increase in traffic are located within Phase 1, Phase 2 and Phase 3. There are a total of 49 homes which comprise these three phases.

According to the Florida Department of Education Child Care Facility Handbook, Section 3.4.2, the daycare facility has to have a minimum of 35 square feet per child. The proposed daycare facility is 11,000 sq ft. While I am not privy to the design layout of the building, for an approximation I am subtracting 2,000 sq ft from the proposed square footage for restrooms, kitchen/food prep areas, stairwells, etc. This leaves 9,000 sq ft which will allow an occupancy of 250 children and will increase the vehicle traffic in our neighborhood by at least 250 cars (5 times the number of homes directly affected). This number does not include the vehicles driven by staff. Newberry Lane and our neighborhood roads are two lanes. A significant increase in vehicles will create corresponding significant delays in entering and exiting our neighborhood. Safety is also a concern as there are several people who walk for exercise daily in our community.

Lastly, continuous noise:

A daycare will bring continuous noise both from the children and from the increased traffic. This will directly affect the living conditions that I and my neighbors currently enjoy and will ultimately decrease our property values.

A solution for all would be for the daycare facility to be built off of Newberry Road where the commercial construction is currently underway. This would allow them to build in commercial zoning, the parents and staff would have ease of, as well as safe, ingress and egress off of Newberry Road (which is able to handle the volume of vehicles) and the noise level would not influence the surrounding commercial spaces.

Thank you for your attention to my response. I request that the City of Newberry not allow the daycare to be built on Newberry Lane but instead to be built in a better suited location on Newberry Road.

Sincerely,

Tracey Woods  
272 NW 238<sup>th</sup> Terrace  
Newberry, FL 32669

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Farnsworth James Montgomery</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Board of Adjustment Newberry City Commission</i>
MAILING ADDRESS <i>220 SW 264<sup>th</sup> St.</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY      COUNTY <i>Newberry      Alachua</i>	NAME OF POLITICAL SUBDIVISION: <i>Commissioner</i>
DATE ON WHICH VOTE OCCURRED <i>9/23/24</i>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

## APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

## DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, James FARRSWORTH, hereby disclose that on Sept. 23rd, 20 24:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Not able to review item prior to vote. Item was O2B kids site Development Plan

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

10/1/24

Signature

[Signature]

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

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\*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*

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Not able to review Wittles Mini Storage site + Development Plan prior to vote

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