



# City of Newberry Commission Meeting

April 27, 2020  
7:00 p.m.

25440 West Newberry Road  
Newberry, Florida 32669

## MINUTES

### CALL TO ORDER

Mayor Marlowe called the virtual meeting to order at 7:00 p.m. via Zoom due to COVID-19.

### APPROVAL OF AGENDA

Mayor Marlowe pulled *Item 8 Planning and Zoning Appointments*. The Commissioners will receive scorecards to be returned to Clerk Rice's office. The two appointments will be announced at the next meeting.

7:02 p.m. Commissioner Marden joined the meeting.

Mayor Marlowe called a roll call for approval of agenda

Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet

APPROVAL OF AGENDA 5-0

### VIRTUAL QUORUM CHECK

Mayor	Jordan Marlowe
Commissioners	Ricky Coleman Rocky McKinley Monty Farnsworth Tim Marden Paul Norfleet
City Attorney	Scott Walker
City Attorney	Rich Maltby
City Manager	Mike New
City Clerk	Judy Rice
Staff:	
Director of Finance and Administration	Dallas Lee
Director of Planning and Economic Development	Bryan Thomas

## INVOCATION

Reverend Karen Burris, Newberry United Methodist Church provided the invocation.

## PLEDGE OF ALLEGIANCE

Mayor Marlowe led the Pledge of Allegiance.

## PRESENTATIONS

### 1. Proclamation Calling For A Regular Election

Mayor Marlowe read the proclamation.

Discussion ensued regarding length of terms for elected officials as presented in the proclamation and vote-by-mail ballot requests. The City Clerk's Office will continue to accept, compile, and forward vote-by-mail ballot requests to the Alachua County Supervisor of Elections for processing.

## PUBLIC ANNOUNCEMENTS

There were no public announcements.

## CONSENT AGENDA

2. Proclamation Recognizing the Week of May 3 - May 9, 2020, as Professional Municipal Clerks Week
3. March 23, 2020, Commission Meeting Minutes
4. Payment Register
5. Power Cost Adjustment
6. Florida Municipal Power Agency (FMPA) Liaison Report

Mayor Marlowe called for a roll call for the approval of the consent agenda.

Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.

### APPROVAL OF CONSENT AGENDA 5-0

## PUBLIC HEARINGS AND ORDINANCES

7. Quasi-Judicial Public Hearing: Ordinances 2020-01, 2020-02, 2020-03, 2020-04, 2020-05, 2020-06, 2020-07, 2020-08, 2020-09, 2020-10, and 2020-11, Second reading and Enactment of Ordinances of the City of Newberry, Florida, to Voluntarily Annex Certain Portions of Unincorporated Alachua County.

Mayor Marlowe spoke on the County's concerns of Ordinances 2020-04, 2020-06, 2020-09, and 2020-10. There is the option to table these four ordinances or to continue on with the vote.

Attorney Maltby and Attorney Walker addressed the concerns with the Commission. If these four ordinances are voted on tonight, the County by Florida Statute has 30 days to enter into a dispute resolution with the City.

Mayor Marlowe read the *Quasi-Judicial Procedures*.

Clerk Rice swore in Director Thomas, Mr. Justin Richardson, and Mr. Jay Brown.

**Mayor Marlowe called for a roll call to disclose if there was any ex parte communication.**

**Nay: Mayor Marlowe, Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

There was no ex parte communication for the ordinances referenced in the agenda item title.

Attorney Maltby read Ordinance 2019-01 by title only on second reading.

#### **PUBLIC HEARING OPEN**

Director Thomas provided staff overview and staff report. Staff's recommendation is to enact Ordinance 2020-01 on second reading.

No applicant present.

No third party intervenor.

No cross-examination.

No public comment.

#### **PUBLIC HEARING CLOSED**

Attorney Maltby reminded the Commission of applicable law.

**Motion made by Commissioner Coleman to enact Ordinance 2020-01 on second reading.**

**Seconded by Commissioner Marden.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

Attorney Maltby read Ordinance 2020-02 by title only on second reading.

## **PUBLIC HEARING OPEN**

Director Thomas remained sworn and provided staff overview and report. Staff recommendation is to enact Ordinance 2020-02 on second reading,

No applicant present.

No third party intervenor.

No cross-examination.

No public comment.

## **PUBLIC HEARING CLOSED**

Attorney Maltby reminded the Commission of applicable law.

**Motion made by Commissioner Marden to enact Ordinance 2020-02 on second reading.**

**Seconded by Commissioner Farnsworth.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

Attorney Maltby read Ordinance 2020-03 by title only on the second reading.

## **PUBLIC HEARING OPEN**

Director Thomas remained sworn and provided staff overview and report. Staff's recommendation is to enact Ordinance 2020-03 on second reading.

No applicant present.

No third party intervenor.

No cross-examination.

No public comment.

## **PUBLIC HEARING CLOSED**

Attorney Maltby reminded the Commission of applicable law.

**Motion made by Commissioner Farnsworth to enact Ordinance 2020-03 on second reading.**

**Seconded by Commissioner McKinley.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

Attorney Maltby read Ordinance 2020-04 by title only on second reading.

**PUBLIC HEARING OPEN**

Director Thomas remained sworn and provided staff overview and report. Staff's recommendation is to enact 2020-04 on second reading.

The County is concerned that this is creating an enclave.

No applicant present.

No third party intervenor.

No cross-examination.

Mayor Marlowe asked for public comment. Mr. Justin Richardson thanked the Commission for considering this annexation and looks forward to building a house as a part of the City.

**PUBLIC HEARING CLOSED**

Attorney Maltby reminded the Commission of applicable law with respect to meeting requirements of voluntary annexation statute: contiguity and reasonable compactness. With reasonable compactness the focus is does it create an enclave; which the County has a strict interpretation. Director Thomas has shown that this is reducing the size of an enclave. Arguably, in a matter of law it does meet the definition of reasonably compact.

**Motion made by Commissioner McKinley to enact Ordinance 2020-04 on second reading.**

**Seconded by Commissioner Norfleet.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

Attorney Maltby read Ordinance 2020-05 by title only on second reading.

**PUBLIC HEARING OPEN**

Director Thomas remained sworn and provided staff overview and report. Staff's recommendation is to enact Ordinance 2020-05 on second reading.

No applicant present.

No third party intervenor.

No cross-examination.

No public comment.

**PUBLIC HEARING CLOSED**

Attorney Maltby reminded the Commission of applicable law.

**Motion made by Commissioner Coleman to enact Ordinance 2020-05 on second reading.**

**Seconded by Commissioner Marden.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

Attorney Maltby read Ordinance 2020-06 by title only on second reading.

**PUBLIC HEARING OPEN**

Director Thomas remained sworn and provided staff overview and report. Staff's recommendation is to enact Ordinance 2020-06 on second reading.

The County's concern is:

1. Creates enclave;
  - a. Further isolates enclaves;
  - b. Creates potential for inefficiencies in service.

Director Thomas showed that each parcel in the new enclave has frontage on SW 15<sup>th</sup> Avenue and direct access. There should not be interference with existing services. The goal is to shrink the overall enclave with future annexations.

Manager New spoke on the current enclave that exists. When Komoko Ranch was annexed into the City, the County advised the City to continue pursuing annexations to close the enclave.

No applicant present.

No third party intervenor.

No cross-examination.

No public comment.

**PUBLIC HEARING CLOSED**

Attorney Maltby reminded the Commission of applicable law.

**Motion made by Commissioner Norfleet to enact Ordinance 2020-06 on second reading.**

**Seconded by Commissioner Coleman.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

Attorney Maltby read Ordinance 2020-07 by title only on second reading.

**PUBLIC HEARING OPEN**

Director Thomas remained sworn and provided staff overview and report. Staff's recommendation is to enact Ordinance 2020-07 on second reading.

No applicant present.

No third party intervenor.

No cross-examination.

No public comment.

**PUBLIC HEARING CLOSED**

Attorney Maltby reminded the Commission of applicable law.

**Motion made by Commissioner Coleman to enact Ordinance 2020-07 on second reading.**

**Seconded by Commissioner McKinley.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

Attorney Maltby read Ordinance 2020-08 by title only on second reading.

Mayor Marlowe reread the Quasi-Judicial Procedures when another citizen entered into the meeting.

**Mayor Marlowe called for a roll call to disclose if there was any ex parte communication.**

**Nay: Mayor Marlowe, Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

There was no ex parte communication for the ordinances referenced in the agenda item title.

#### **PUBLIC HEARING OPEN**

Director Thomas remained sworn and provided staff overview and report. Staff's recommendation is to enact Ordinance 2020-08 on second reading.

No applicant present.

No third party intervenor.

No cross-examination.

No public comment.

#### **PUBLIC HEARING CLOSED**

Attorney Maltby reminded the Commission of applicable law.

**Motion made by Commissioner McKinley to enact Ordinance 2020-08 on second reading.**

**Seconded by Commissioner Marden.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

Attorney Maltby read Ordinance 2020-09 by title only on second reading.

#### **PUBLIC HEARING OPEN**

Director Thomas remained sworn and provided staff overview and report. Staff's recommendation is to enact Ordinance 2020-09 on second reading.

County's concerns:

1. Not substantially contiguous
2. Not, "compact"
3. Creates, "pocket enclave"

Director Thomas pointed out that the concerns of the County did not take in account Ordinance 2020-08 when reviewing Ordinance 2020-09. With that in account, it lessens compactness.

No applicant present.

No third party intervenor.

No cross-examination.



No public comment.

**PUBLIC HEARING CLOSED**

Attorney Maltby reminded the Commission of applicable law.

**Motion made by Commissioner Norfleet to enact Ordinance 2020-09 on second reading.**

**Seconded by Commissioner Marden.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

Attorney Maltby read Ordinance 2020-10 by title only on second reading.

**PUBLIC HEARING OPEN**

Director Thomas remained sworn and provided staff overview and report. Staff's recommendation is to enact Ordinance 2020-10 on second reading.

County's concerns:

1. Not substantially contiguous
2. Not, "compact"
3. Creates, "finger enclave"
4. Point to point is not contiguous

No applicant present.

No third party intervenor.

No cross-examination.

No public comment.

**PUBLIC HEARING CLOSED**

Attorney Walker reminded the Commission of applicable law. He also stated that there is a body of law that point-to-point corners of property are not sufficient under annexation law to provide contiguity. From the map this property does not seem to be in an existing enclave, therefore the argument that an enclave is being reduced can't be used. He advised the Commission that this would not survive a challenge.

**Motion made by Commissioner Farnsworth to enact Ordinance 2020-10 on second reading.**

**Seconded by Commissioner McKinley.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

Attorney Maltby read Ordinance 2020-11 by title only on second reading.

**PUBLIC HEARING OPEN**

Director Thomas remained sworn and provided staff overview and report. Staff's recommendation is to enact Ordinance 2020-11 on second reading.

No applicant present.

No third party intervenor.

No cross-examination.

No public comment.

**PUBLIC HEARING CLOSED**

Attorney Maltby reminded the Commission of applicable law.

**Motion made by Commissioner Norfleet to enact Ordinance 2020-11 on second reading.**

**Seconded by Commissioner Farnsworth.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet.**

**MOTION PASSED 5-0**

**AGENDA ITEMS**

- 8. ~~Resolution 2020-11: Fill Two Vacancies on the Planning & Zoning Board Due to Appointment Terms Expiring.~~**

This item was pulled.

- 9. CDBG Housing Rehabilitation Program – Bid Recommendation and Status Update**

Mr. Dennis Dingman, Summit Professional Services presented this item.

On October 24<sup>th</sup> and January 9<sup>th</sup> sealed bids were received and opened for 5 rehabilitation housing units and 5 demolition replacement housing. On January 27<sup>th</sup> only 4 of the demolition replacement housing units and 3 of the rehabilitation housing units were awarded. Since January, the City's *State Housing Initiative Program (SHIP)* grant application has been approved verbally. The City anticipates bringing forward the SHIP agreement in

May, therefore the recommendation to award the following housing units that were not awarded in January:

1. Ms. Benitez
2. Ms. Moats
3. Ms. Darling

**Motion made by Commissioner Farnsworth to award bids for Ms. Benitez, Ms. Moats, and Ms. Darling.**

**Seconded by Commissioner Coleman.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet**

**Motion Passed 5-0**

**10. Oak Park Phase 1 Final Plat Approval Request**

Director Thomas presented this item. The 70 units have been approved by the City Surveyor. The Surety Agreement has been approved by the City Attorney.

Attorney Walker stated there is no relation between Commissioner Coleman and Coleman Construction, Inc. on the Surety Agreement.

**Motion made by Commissioner Norfleet to approve Final Plat for Oak Park Phase 1 and Surety Agreement.**

**Seconded by Commissioner Coleman.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, and Commissioner Norfleet**

**Voting Nay: Commissioner Marden**

**Motion Passed 4-1**

**11. Report on Newberry COVID-19 Work Plan / Extend Local State of Emergency in Newberry (Resolution 2020-19)**

Manager New provided a PowerPoint presentation with updates on how the City is operating during this time.

Attorney Maltby read resolution by title only

**Motion made by Commissioner Farnsworth to adopt Resolution 2020-19.**

**Seconded by Commissioner McKinley.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet**

**Motion Passed 5-0**

**12. Authorize Letter (from the Mayor) to Governor DeSantis Requesting a Swift Re-opening for Businesses in Florida.**

Mayor Marlowe presented this item.

**Motion made by Commissioner Marden to authorize letter from the Mayor to Governor DeSantis.**

**Seconded by Commissioner Coleman.**

**Voting Yea: Commissioner Coleman, Commissioner McKinley, Commissioner Farnsworth, Commissioner Marden, and Commissioner Norfleet**

**Motion Passed 5-0**

**COMMENTS**

**City Manager**

Provided updates on City business.

**City Attorney**

The office is still open, however closed to the public unless absolutely necessary.

**Mayor**

Asked for volunteers for the upcoming Farm Share Event in Newberry.

**MEETING ADJOURNMENT**

Meeting adjourned at 9:09 p.m.

Signed and approved this 11<sup>th</sup> day of May 2020.

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Jordan Marlowe, Mayor

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Judy S. Rice, City Clerk