

CITY OF NEWPORT, KY
SPECIAL MEETING OF THE BOARD OF COMMISSIONERS
JULY 20, 2021 at 4:00 p.m.
MINUTES

CALL TO ORDER AND ROLL CALL

The meeting was called to order by Mayor Guidugli at 4:00 p.m. in the Multi-Purpose room of the Newport Municipal Building at 998 Monmouth Street.

COMMISSIONERS ORDER NO. R-2021-046

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY, APPOINTING RAYMOND BUTTS, MARK MARRON AND MIKE RADWANSKI TO THE CODE BOARD OF THE CITY OF NEWPORT, KENTUCKY.

Commissioner Fennell made a **motion to approve**; second to the motion was offered by Vice Mayor Peluso. The Mayor called for a vote; the **motion carried unanimously, 5:0.**

COMMISSIONERS ORDER NO. R-2021-047

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY, APPOINTING TIM CURL AND JAN KNEPSHIELD AND REAPPOINTING SUSAN WHITEHEAD TO THE BOARD OF ADJUSTMENTS OF THE CITY OF NEWPORT, KENTUCKY.

Commissioner Fennell made a **motion to approve**; second to the motion was offered by Vice Mayor Peluso. The Mayor called for a vote; the **motion carried unanimously, 5:0.**

COMMISSIONERS ORDINANCE O-2021-008

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY REPEALING AND RE-ENACTING SECTION 9.21 OF THE OFFICAL ZONING CODE OF THE CITY OF NEWPORT, KENTUCKY CONCERNING FLOOD DAMAGE PROTECTION.

Vice Mayor Peluso made a **motion to approve**; second to the motion was offered by Commissioner Fennell. The Mayor called for a vote; the **motion carried unanimously, 5:0**

COMMISSIONERS ORDINANCE O-2021-011

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY AMENDING SECTION 31.42 OF THE CODE OF ORDINANCES CONCERNING THE OFFICE OF THE CITY MANAGER.

Commissioner Fennell made a **motion to approve**; second to the motion was offered by Commissioner Rehtin. The Mayor called for a vote; the **motion carried unanimously, 5:0**

COMMISSIONERS ORDER NO. R-2021-030

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY AUTHORIZING AND APPROVING CERTAIN ACTIONS IN CONNECTION WITH THE COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS (CDBG-CV) UTILITY RELIEF PROGRAM.

Larisa Sims stated this is a required order for the city to apply for this program from the State.

Commissioner Rehtin stated this has been a long process through the State; the city had no control over how long it has taken to receive this grant.

Mayor Guidugli thanked Mrs. Sims for her hard work on this program to get relief to those who need it the most.

Vice Mayor Peluso made a **motion to approve**; second to the motion was offered by Commissioner Fennell. The Mayor called for a vote; the **motion carried unanimously, 5:0**

INFORMATIONAL STATEMENT FROM LEGAL DEPARTMENT

City Attorney Dan Braun read the statement, which is included with these minutes.

Commissioner Rehtin made a **motion to recuse** Mayor Guidugli from voting on R-2021-39 thru R-2021-045 and any and all other future matters or votes to be taken regarding the 2020 Newport Homeownership Development Project; second to this motion was offered by Vice Mayor Peluso. The Mayor called for a vote: **the motion carried unanimously 5-0.**

COMMISSIONERS ORDER NO. R-2021-039

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY AUTHORIZING AND DIRECTING CITY MANAGER THOMAS J. FROMME TO EXECUTE A DEVELOPMENT AGREEMENT WITH NEIGHBORHOOD FOUNDATIONS AND NEWPORT MILLENNIUM HOUSING CORPORATION III CONCERNING THE 2020 NEWPORT HOMEOWNERSHIP DEVELOPMENT PROJECT.

Thomas Fromme gave a brief explanation of the development agreement, which states the Newport Millennium Housing Corporation III will be responsible for any cost overruns for the development, not the City.

Dennis Elrod with the Newport Millennium Housing Corporation replied this the States way of saying if the funds run out there will be no more funds available.

Commissioner Fennell asked for clarification of the program, and where the properties would be located in the city.

Thomas Guidugli Sr. gave an explanation of the program and locations of the new and Renovated housing units.

Commissioner Fennell stated this is a first time home owner program, which allows those Who would not be able to afford a home the opportunity to do so.

Thomas Guidugli Sr. replied there are strict guidelines, but if the applicant adheres to the requirements they would be able to receive the loan.

Commissioner Rehtin made a **motion to approve**; second to the motion was offered by Commissioner Fennell. The Mayor called for a vote; the **motion carried, 4:0 (1 recuse)**

COMMISSIONERS ORDER NO. R-2021-040

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY ACKNOWLEDGING AND ACCEPTING THE REQUIREMENT THAT THE CITY MUST FUND ALL COST OVERRUNS RELATED TO IMPLEMENTATION OF THE 2020 NEWPORT HOMEOWNERSHIP DEVELOPMENT PROJECT.

Vice Mayor Peluso made a **motion to approve**; second to the motion was offered by Commissioner Fennell. The Mayor called for a vote; the **motion carried, 4:0 (1 recuse)**

COMMISSIONERS ORDER NO. R-2021-041

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY AUTHORIZING AND DIRECTING MAYOR THOMAS L. GUIDUGLI JR. TO EXECUTE A COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING AGREEMENT WITH THE COMMONWEALTH OF KENTUCKY FOR THE 2020 NEWPORT HOMEOWNERSHIP DEVELOPMENT PROJECT.

Commissioner Fennell made a **motion to approve**; second to the motion was offered by Vice Mayor Peluso. The Mayor called for a vote; the **motion carried, 4:0 (1 recuse)**

COMMISSIONERS ORDER NO. R-2021-042

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY ADOPTING A RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION ASSISTANCE PLAN FOR THE 2020 NEWPORT HOMEOWNERSHIP DEVELOPMENT PROJECT.

Commissioner Fennell made a **motion to approve**; second to the motion was offered by Commissioner Rehtin. The Mayor called for a vote; the **motion carried, 4:0 (1 recuse)**

COMMISSIONERS ORDER NO. R-2021-043

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY APPROVING AND ADOPTING REVOLVING FUND GUIDELINES FOR RECEIPT AND USE OF PROGRAM INCOME RESULTING FROM IMPLEMENTATION OF THE 2020 NEWPORT HOMEOWNERSHIP DEVELOPMENT PROJECT.

Commissioner Fennell made a **motion to approve**; second to the motion was offered by Commissioner Rehtin. The Mayor called for a vote; the **motion carried, 4:0 (1 recuse)**

COMMISSIONERS ORDER NO. R-2021-044

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY ADOPTING PROCUREMENT STANDARDS AND A CODE OF CONDUCT TO GOVERN ALL PROCUREMENTS MADE IN CONNECTION WITH THE 2020 NEWPORT HOMEOWNERSHIP DEVELOPMENT PROJECT.

Vice Mayor Peluso made a **motion to approve**; second to the motion was offered by Commissioner Fennell. The Mayor called for a vote; the **motion carried, 4:0 (1 recuse)**

COMMISSIONERS ORDER NO. R-2021-045

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY ACKNOWLEDGING AND ACCEPTING RECEIPT OF STATE CLEARINGHOUSE COMMENTS AND AGREEING TO ALL REQUIREMENTS SET FORTH IN THE COMMENTS SHALL BE MET DURING IMPLEMENTATION OF THE 2020 NEWPORT HOMEOWNERSHIP DEVELOPMENT PROJECT.

Commissioner Fennell made a **motion to approve**; second to the motion was offered by Commissioner Rehtin. The Mayor called for a vote; the **motion carried, 4:0 (1 recuse)**

COMMISSIONERS ORDINANCE NO. O-2021-013

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY CREATING SECTION 33.25 OF THE CODE OF ORDINANCES REGARDING DESIGNATION OF THE CITY'S FIRE/EMS DEPARTMENT AS THE ADVANCED LIFE SUPPORT/EMERGENCY AMBULANCE PROVIDER WITHIN THE CITY

Fire Chief Frank Peluso stated this prevents outside agencies from coming into the city to provide EMS services. This ensures our citizens and visitors from receiving substandard care from private agencies. They are getting our medically trained professionals for transportation and care.

Commissioner Fennell asked if outside agencies currently come into the city.

Fire Chief Frank Peluso replied yes. He stated events held in the city such as races hire outside ambulance services. This will no longer be allowed under this ordinance. He went on to say this would not prevent the city from calling for mutual aid, which allows surrounding cities to assist. This only pertains to private contractors providing emergency services.

Commissioner Rehtin made a **motion to approve**; second to the motion was offered by Commissioner Fennell. The Mayor called for a vote; the **motion carried, 5:0**

ADJOURNMENT

Commissioner Fennell made a **motion to adjourn**; second to the motion was offered by Commissioner Rehtin. The Mayor called for a vote; the **motion carried unanimously, 5:0**. The meeting ended at 4:25

Respectfully submitted,

Joy Rovno, Interim City Clerk

8/16/21
Date Approved/Signed

Thomas L Guidugli Jr.
Thomas L Guidugli Jr., Mayor

Attest:

Joy Rovno
City Clerk/ Joy Rovno

7/20/21 Special Call Public Meeting (read into the record, to be placed in the Minutes)
Informational Statement from the Legal Department

MAYOR AND COMMISSIONERS:

As we are about to embark on several (7) pieces of legislation pertinent to what I am about to indicate, I am undertaking to make the following statement at this time.

You have all been provided in your packets copies of letters to Commissioner Dennis Keene and Mr. Stephens, General Counsel for the Ky. Dept. of Local Government, along with a Memorandum concerning the potential conflict of interest between Thomas Guidugli, Jr. as Mayor and member of the Newport Housing Authority and his father, Thomas Guidugli, Sr., as President of the Newport Millennium Housing Corporation III and head of the Housing Authority of Newport.

In the interest of full transparency and disclosure, I request that you acknowledge the content of these documents, that you have reviewed the relationship and opinion rendered and I request that they be submitted and placed within the Minutes and record of this public meeting.

As you can glean from the content thereof, I have rendered an opinion that there is no conflict of interest between these two persons familial relationship and their respective positions. However, in the abundance of caution, I recommend that either the Mayor voluntarily agree, on record, and that the Board make a Motion and vote to require the Mayor to recuse (not abstain) from any vote taken on matters and/or legislation related to the Newport 2020 Homeownership Development Housing Project. By doing so the City will satisfy the concerns of the State that the conflict of interest regulations will not violate state or local law.

Note that last Monday the NMHC III Board held its meeting and made the same full public disclosure placing the same type of documentation into the Minutes and record. In addition, they also voted to require the Mayor to recuse himself from any vote taken on matters related to the Project, which he also agreed to do and did not participate in.

In the event of your approval and action I will thereafter acknowledge the his discussion and disclosure made within this public forum and advise and provide the same to DLG.

As a further result, all legislation forthcoming, if approved, will be signed by Frank Peluso, as Vice Mayor.

Mr. Elrod is also present in the event there may be any questions.

STATEMENT CONCERNING CONFLICT OF INTEREST WITH MAYOR



NEWPORT

KENTUCKY

July 21, 2021

Dennis Keene, Commissioner
Department for Local Government
100 Airport Road
Frankfort, Kentucky 40601

Dear Commissioner Keene:

Please accept this letter as a request for an exception to conflict-of-interest regulations published at 24 CFR Part 570.489 (h) as these regulations apply to the City of Newport's 2020 Home Ownership Development Project (CDBG 20-047). This request is provided in response to a letter dated July 8, 2021 to Newport City Solicitor Daniel Braun from Department for Local Government General Counsel Matt Stephens, a copy of which is included herewith.

On page two of his letter, General Counsel Stephens confirmed the nature of the potential conflict in question has been fully disclosed to the Department for Local Government (DLG). Mr. Stephens' letter also requires the City of Newport (City) document public disclosure of the potential conflict. General Counsel Stephens further requires City Solicitor Braun to opine the interest for which the City seeks an exception to CDBG conflict-of-interest regulations and that it would not violate state or local law. City Solicitor Braun's opinion the requested exception would not violate state or local law is included herewith.

Please be advised the following public disclosures and official actions have also occurred.

At its July 12, 2021 meeting, which was advertised on its website and was open to the public, the Newport Millennium Housing Corporation III (NMHC) Board of Directors received a presentation from its legal counsel W. Thomas Fisher describing the relationship between the City and NMHC; the relationship between Thomas L. Guidugli's service as Mayor of the City of Newport and as a voting member of the NMHC Board of Directors; and, and the relationship of Thomas L. Guidugli, Jr. and Thomas L. Guidugli, Sr., President of NMHC.

Mr. Fisher recommended the NMHC Board require Thomas L. Guidugli, Jr. to recuse himself from voting on any and all matters related to the City of Newport's 2020 Home Ownership Development Project (CDBG 20-047) which may come before the NMHC Board of Directors. Documentation of Mr. Fisher's presentation to the Board of Directors and confirmation of Board action to require Mayor Guidugli's recusal (to which he also assented) are included in the Minutes of the July 12, 2021 meeting of the NMHC Board of Directors, a copy of which is included herewith and which will be posted on the NMHC website.

At our July 20, 2021 special call meeting, which was advertised on the City's website and open to the public, the Board of Commissioners of the City of Newport received a presentation from City Solicitor Braun which described the relationship between the City and NMHC; the relationship between Thomas L. Guidugli's service as Mayor of the City of Newport and as a voting member of the NMHC Board of Directors; and, the relationship of Thomas L. Guidugli, Jr. and Thomas L. Guidugli, Sr., President of NMHC.

In an abundance of caution, City Solicitor Braun recommended that Mayor Thomas Guidugli, Jr. either voluntarily recuse himself and/or that the Board of Commissioners take action to require Thomas L. Guidugli, Jr. to recuse himself from voting on any and all matters related to Newport's 2020 Home Ownership Development Project (CDBG 20-047) which may come before the Board of Commissioners. Documentation of City Solicitor Braun's presentation to the Board and confirmation of Board of Commissioners action to require Mayor Guidugli's recusal are included in the Minutes of the July 20, 2021 special call meeting of the City of Newport's Board of Commissioners, a copy of which will be separately provided upon completion by the City Clerk and which will be posted on the City's website.

Pertinent regulations set forth at 24 CFR 570.489 (h)(5) identify factors DLG may assess in consideration of granting an exception to CDBG conflict-of-interest regulations. The below information is provided in regard to the City's exception request.

24 CFR 570.489 (h) (5) (i): This exception will allow the City to take advantage of the expertise and record of success NMHC has demonstrated in creation of affordable owner-occupied housing in Newport. No other non-profit or for-profit developers have shown the interest, the development expertise or the financial means to implement the 2020 Home Ownership Development Project (CDBG 20-047).

24 CFR 570.489 (h) (5) (iv): Thomas L. Guidugli, Jr. has been required by the NMHC Board of Directors and the City of Newport Board of Commissioners to recuse himself from votes on any and all matters related to the City of Newport's 2020 Home Ownership Development Project (CDBG 20-047) which may come before the NMHC Board or the City's Board of Commissioners.

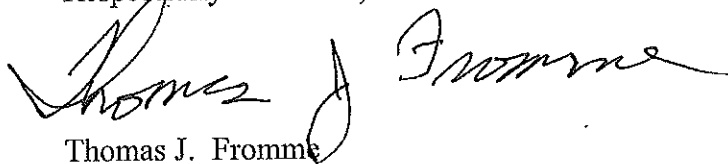
The City of Newport and NMHC believe full public disclosure of the potential conflict-of-interest has been made. The City of Newport and NMHC believe by recusal of Mayor Thomas L. Guidugli, Jr. from votes on any and all matters related to the City of Newport's 2020 Home Ownership Development Project (CDBG 20-047) which may come before the NMHC Board or the City's Board of Commissioners eliminates potential conflict-of-interest issues related to his service as Mayor of the City of Newport and as a voting member of the NMHC Board of Directors.

City Solicitor Braun has issued the required legal opinion (included herewith) stating DLG's approval of an exception to CDBG conflict-of-interest regulations and Mayor Guidugli's service as Mayor of the City of Newport and as a voting member of the NMHC Board of Directors will not violate state or local law.

There, the City of Newport requests DLG issue an exception to the provisions of 24 CFR 570.489 (h) (2) and permit the City of Newport to promptly begin implementation of the 2020 Home Ownership Development Project (CDBG 20-047). The City of Newport believes such an action on the part of DLG will, as described in 24 CFR 570.489 (h) (4), further the purpose of the Act and the effective administration of our project.

Your timely response to this request will be most appreciated.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas J. Fromme". The signature is written in dark ink and is positioned above the typed name.

Thomas J. Fromme
City Manager
City of Newport, Kentucky

cc: City Solicitor Daniel Braun
DLG General Counsel Matt Stephens
W. Thomas Fisher, NMHC Counsel

enclosures



NEWPORT

KENTUCKY

June 21, 2021

Commissioner Dennis Keene
Department for Local Government
100 Airport Road
Frankfort, Kentucky 40601

Dear Commissioner Keene:

I am Daniel Braun, City Solicitor for the City of Newport, Kentucky. This letter and the legal opinion contained herein are offered as the City of Newport's response to item 15. of Commissioner Dennis Keene's letter to the City regarding potential conflict of interest issues related to implementation of the recently approved Community Development Block Grant (CDBG) award for the Newport Homeownership Development Housing Project (CDBG 20-047).

I understand the Department for Local Government (DLG) wants the City of Newport to disclose and resolve possible conflict of interest issues that could arise from the fact our Mayor, Thomas L. Guidugli, Jr. is the son of Thomas L. Guidugli, Sr., President and CEO of Newport Millennium Housing Corporation III (NMHC), the nonprofit developer who will construct and rehabilitate housing using CDBG funds approved for project 20-047.

Thomas Guidugli, Jr. became Mayor in January 2021. Prior to that time, he had served as a City Commissioner for 10 years. During his service as City Commissioner, DLG approved several CDBG applications for projects identical to the Newport Homeownership Development Housing Project (CDBG 20-047).

The familial relationship between Thomas Guidugli, Sr. and Thomas Guidugli, Jr. is obvious and well-documented. Form HUD-2880 was included in each of Newport's prior CDBG applications submitted while Thomas Guidugli, Jr. was a City Commissioner and Thomas Guidugli, Sr. was President of NMHC. Form HUD 2880 identified Thomas Guidugli, Jr. and Thomas Guidugli, Sr. as Interested Parties in these proposed projects. On none of these prior projects did DLG raise the possibility a conflict of interest existed due to the Guiduglis being Interested Parties.

In December 2020, the City held the public hearing required prior to submission of the application which has now been funded as CDBG 20-047. No member of the public attended the hearing. At that time, Thomas Guidugli, Jr. was a City Commissioner and given the absence of prior concern by DLG regarding potential conflict of interest by the Guidugli's involvement in CDBG-funded projects, no public disclosure regarding their potential involvement in this new project was believed to be required.

In January 2021, Thomas Guidugli, Jr. assumed his position as Mayor for the City of Newport. Subsequently, the City of Newport made application for the recently approved CDBG funding. At that time, the Newport City Commission unanimously authorized and directed Mayor Thomas Guidugli, Jr. to execute and submit the CDBG application for DLG's consideration. A copy of the Commissioners Order related to this matter was included in application documents submitted to DLG.

By City Ordinance, Newport's Mayor is an ex officio member of the Board of Directors of the Housing Authority of Newport, Kentucky, doing business as Neighborhood Foundations. While a freestanding 501 (c) (3) non-profit corporation, Newport Millennium Housing Corporation III is wholly controlled by and has the same Board and officers as the Housing Authority of Newport, Kentucky. By virtue of his ex officio status on the Board of Housing Authority of Newport, Kentucky, Mayor Guidugli is also a voting member of the NMHC III Board of Directors.

With those disclosures it also critical to note:

- Mayor Guidugli is not an employee of NMHC III.
- Mayor Guidugli has no role in day-to-day operations of NMHC III.
- Mayor Guidugli has no interest in real estate owned by NMHC III.
- Mayor Guidugli has no interest in contracts awarded by NMHC III.
- Mayor Guidugli receives no compensation for service on the Neighborhood Foundations Board.
- Mayor Guidugli receives no compensation for service on the NMHC III Board.
- Thomas Guidugli, Sr. has no interest in real estate owned by NMHC III.
- Thomas Guidugli, Sr. has no interest in contracts awarded by NMHC III.

Any action by the City of Newport related to its relationship with NMHC III must be approved by an affirmative vote of the City of Newport's elected Board of Commissioners. In matters related to the City's relationship with NMHC III, Mayor Guidugli lacks legal authority to act without prior Board of Commissioners approval.

Any action by NMHC III related to its relationship with the City of Newport must be approved by an affirmative vote of the NMHC III Board of Directors. Mayor Guidugli has no authority to act on behalf of NMHC III.

For the reasons identified above, it is my opinion as City Solicitor that I do not believe the familial relationship between Mayor Guidugli and Thomas Guidugli, Sr. creates a conflict of interest relative to implementation of the Newport Homeownership Development Housing Project (CDBG 20-047).

Further, it is my opinion as City Solicitor that Thomas Guidugli, Jr's roles as Mayor and NMHC III Board member do not create

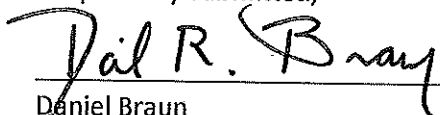
Further, it is my opinion as City Solicitor that I do not believe Thomas Guidugli, Sr.'s role of President and CEO of NMHC III creates a conflict of interest in the implementation of the Newport Homeownership Development Housing Project (CDBG 20-047).

However, in the interest of transparency and full disclosure, for the duration of the Newport Homeownership Development Housing Project (CDBG 20-047), the City of Newport Board of Commissioners will, in a public meeting of the Board of Commissioners, review the relationship between the City of Newport and NMHC III, including a full review of the relationship between Mayor Guidugli and his father, the President of NMHC III. Confirmation of this public disclosure shall be provided to the Department for Local Government.

Further, the Board of Commissioners will require Mayor Thomas L. Guidugli, Jr. to recuse himself from any vote taken on matters relating to the City of Newport's relationship with NMHC III. This action will be taken in an open meeting of the Board of Commissioners and confirmation of this action will be furnished to DLG.

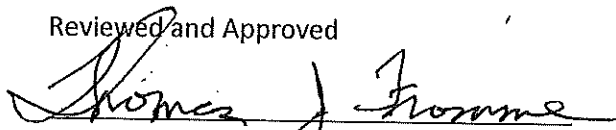
We welcome your review of this information and look forward to receipt of your concurrence that under the circumstances set forth herein Thomas Guidugli Jr's service as Mayor and NMHC III Board member will create no conflict of interest during implementation of the Newport Homeownership Development Housing Project (CDBG 20-047).

Respectfully submitted,



Daniel Braun
City Solicitor

Reviewed and Approved



Thomas J. Fromme, City Manager