

**CITY OF MARIANNA
SPECIAL CITY COMMISSION MEETING**

**August 11, 2020
4:00 pm**

**By Phone or In Person
Call: 717-275-8940
Access Code: 338 4788**

**CITY HALL
2898 GREEN STREET, MARIANNA, FL**

1. Call To Order

2. Roll Call

Mayor and Commissioners

Travis Ephriam, Mayor/Commissioner
Allen Ward, Mayor Pro Tem/Commissioner
Kenneth Hamilton, Commissioner
John E. Roberts, Commissioner
Rico Williams, Commissioner

3. Invocation And Pledge To The Flag

4. Approval Of Agenda (Additions Or Deletions)

5. Public Meeting/Forum

5.A. Opening On Face Mask Discussion

Sandy Martin - Jackson County Health Department

5.B. Mask Ordinance Discussion

Documents:

[PROPOSED FACE MASK ORDINANCE.PDF](#)

6. Presentations

7. Public Hearing

8. Planning/Development

9. Other Policy Matters

9.A. Pocket Park Lease

Documents:

[LETTER FROM ATTORNEY.PDF](#)

9.B. Real Property Waiver & Agreement
Deutsche Leasing USA, Inc.

Documents:

[REAL PROPERTY WAIVER AND AGREEMENT.PDF](#)

10. **Mayor & Commission Report**
11. **City Attorney**
12. **City Manager/Administrative Reports**
13. **Adjourn**
14. **Review & Approval Of Minutes**

The City of Marianna is an Equal Opportunity Employer and a Drug-Free Workplace. In accordance with the adopted Section 504 Policy, the City will take affirmative steps to reasonably accommodate the disabled and ensure their needs are equitably represented in City programs and activities. Pursuant to Title VI and the Civil Rights Act of 1964, the City will not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, language, income or family status. For assistance with EEO, Title VI or Section 504 matters contact Julie Chance at 850-482-4353. The City also has a Fair Housing Ordinance. For assistance with Fair Housing matters contact Kay Dennis at 850-482-2786. In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this meeting should contact the City Clerk's Office at 850-482-4353 no later than 3 days prior to the meeting. City Hall is located at 2898 Green Street, Marianna, FL.

EMERGENCY ORDINANCE NO. 2020-__ E

AN EMERGENCY ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA, FINDING THAT A PUBLIC EMERGENCY EXISTS; REQUIRING EMPLOYEES IN BUSINESSES TO WEAR A FACE COVERING; PROVIDING FOR EXCEPTIOS; PLACING ADDITIONAL STANDARDS ON RETAIL ESTABLISHMENTS, FOOD SERVICE ESTABLISHMENTS AND BARS; PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Marina (“City”) is a municipality granted home rule authority pursuant to Article VIII, Section 2 of the Constitution of the State of Florida and may exercise its governmental, corporate and proprietary powers for municipal purposes, including to regulate for the protection of the public health, safety and welfare; and

WHEREAS, the City of Marianna is empowered, pursuant to Section 166.041(3)(b), Florida Statutes, to adopt emergency ordinances by a two-thirds majority vote; and

WHEREAS, the World Health Organization, U.S. Health and Human Services Secretary, President of the United States, Governor of the State of Florida and the City of Marianna have all acknowledged and declared the outbreak of the novel coronavirus, COVID-19, to be an international, national, state and local emergency; and

WHEREAS, on March 9, 2020, the Governor of the State of Florida issued Executive Order 20-52 authorizing, among other things, local governments to execute their authority under the State Emergency Management Act; and

WHEREAS, since March 17, 2020, the City Commission has taken careful and measured action by Resolution and Emergency Ordinances to balance the public health and safety while also monitoring the need to allow for recreational and commercial activity to safely continue; and

WHEREAS, on June 3, 2020, the Governor of the State of Florida issued Executive Order 20-139 enacting the “Phase 2: Safe. Smart. Step-By-Step Plan for Florida’s Recovery” which expanded guidelines on safe congregations and recreational activities; and

WHEREAS, the City is home to the Florida Caverns, Blue Springs, the Chipola River and other natural and eco-friendly areas to many visitors each year, while also serving as the permanent home for approximately 6,500 residents; and

WHEREAS, U. S. Highways 90, 71 and 73 as well as Interstate 10 are main travel routes for visitors coming into the State of Florida from other states and for Floridians traveling east toward Tallahassee, Jacksonville, Gainesville, Orlando and central and south Florida, and traveling west toward Pensacola, Mobile, New Orleans and other states; and

WHEREAS, since the reopening of the City’s recreational areas and local businesses under the enactment of Phase 2 Reopening, the City has seen an influx of visitors, and many of these visitors are exhibiting an attitude of carefreeness and indifference for CDC guidelines, regarding social distancing; and

WHEREAS, the City has observed that the reopening of the State has led to a corresponding rise in contact between individuals, the potential for increased community spread of COVID-19, and a rise in COVID-19 diagnoses in the City and in Jackson County; and

WHEREAS, since April 3, 2020, the Center for Disease Control (the “CDC”) has identified cloth face coverings by the public as an effective mitigation tool against the spread of COVID-19 transmission and provides guidance on how to wear, make and maintain cloth face coverings;¹ and

WHEREAS, on June 22, 2020, State Surgeon General, Scott Rivkees, issued an additional public health advisory recommending people wear face coverings in any setting where social distancing is not possible, stating that in gatherings of fewer than 50 people, individuals should maintain at least six feet distance from each other or wear a face covering; and

WHEREAS, on July 12, 2020, the United States Surgeon General, Jerome Adams, issued recommendations that mandatory mask orders be put in place at “local and state levels”; and

WHEREAS, on July 14, 2020, the CDC Director stated that “(c)loth face coverings are one of the most powerful weapons we have to slow and stop the spread of the virus – particularly when used universally within a community setting. All Americans have a responsibility to protect themselves, their families and their communities”; and

WHEREAS, the CDC, writing in the Journal of American Medical Association, stated that “(c)ommunity-level protection afforded by use of cloth face coverings can reduce the number of new infections and facilitate cautious easing of more societally disruptive community interventions such as stay-at-home orders and business closings”

¹ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>

and placed special emphasis on wearing face coverings while indoors or in poorly ventilated areas;² and

WHEREAS, on July 14, 2020, President Donald Trump, speaking with CBS News, used Americans to follow CDC guidelines and wear a mask;³ and

WHEREAS, the City Commission finds that, based upon the recommendations of the medical community and the rise in COVID-19 cases throughout the City and Jackson County, the continued risk of COVID-19 infection necessitates emergency measures to mitigate the spread;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA, AS FOLLOWS:

SECTION 1. FINDING OF EMERGENCY: The foregoing recitals are true and correct and incorporated herein as if set out in full. For the reasons set out in the above recitals, the Commission finds and determines that the public health emergency facing the City requires enhanced restrictions adopted by this ordinance which are needed immediately to help address the dangers present in our nation, state and community.

SECTION 2. DEFINITIONS: For purposes of this Ordinance, the following terms shall have the meanings proscribed below:

A. “Business” means a location with a roof overhead under which any business is conducted, good are made, stored, processed, sold, or made available for sale, or where services are rendered. The term includes transportation network companies, such as Ubers and Lyft; vehicles operated for mass transit delivery services, taxis, limousines for hire, other enclosed passenger vehicles for hire.

B. “Face Covering” means a material that covers the nose and mouth in a manner that fits snugly against the sides of the face so there are no gaps. It can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk or linen.

C. “Wear a Face Covering” means the securing of a face covering over the person’s nose and mouth and snugly against the sides of the face.

D. “Lodging Establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three (3) times in a calendar year for periods of less than 30 days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

² <https://jamanetwork.com/journals/jama/fullarticle/2768532>

³ <https://www.cbsnews.com/video/trump-talks-coronavirus-and-policing-in-inclusive-interview/#x>

E. “Food Service Establishment” means a business licensed to sell food covered by Executive Order 20-139

F. “Bar” means a business licensed to sell alcoholic beverages for on-premises consumption which is not also licensed to sell food.

SECTION 3. FACE COVERINGS IN THE CITY:

A. Business Employees. All persons who own or manage a Business shall assure that all persons who are employed or contracted by a Business wear a Face Covering while working indoors within the course of and scope of their employment or contract with that Business unless specifically exempted in Section 4 of this Ordinance.

B. Signage. Each Business shall conspicuously post signage at all points of public entry in substantially the form provided by the City, notifying individuals of the requirements of this Ordinance, and encouraging all patrons to abide by CDC guidelines regarding the use of face coverings and social distancing.

SECTION 4. EXCEPTIONS. Section 3B of this Ordinance shall not apply to the following:

A. An individual with a disability as defined by the Americans with Disabilities Act shall be allowed to request a reasonable modification of this requirement from a Business subject to this Ordinance. Such reasonable accommodation shall include requiring a scarf, looser Face Covering or face shield, allowing curbside pick-up, outdoor service, or removal of the face mask.

B. A person who is communicating with an individual who is hearing impaired who needs to see the mouth of the person speaking to facilitate communication.

C. Public safety, police, fire and other life safety and health care personnel whose use of personal protective equipment requirements are governed by their respective agencies and employers, while engaged in such employment.

D. Business owners, managers, employees and contractors who are in an area of a Business that is not open to customers, patrons, or the public while maintaining social distancing, excluding individuals involved in the preparation and service of food and beverages.

SECTION 5. ADDITIONAL REQUIREMENTS FOR RETAIL ESTABLISHMENTS, FOOD SERVICE ESTABLISHMENTS AND BARS.

Retail Establishments, Food Service Establishments and Bars shall be subject to the following additional standards contained herein:

A. Patron Waiting Procedures. Each Indoor Amusement, Retail Establishment, Food Service Establishment and Bar shall implement procedures designed to mitigate the spread of COVID-19 transmission through the following means:

1. Placing clearly marked areas for individual groups to congregate spaced at least six feet from other waiting congregations. Businesses may utilize designated parking spaces as a patron waiting area to implement this procedure.

2. Placing clear markers for patrons to maintain at least six feet social distancing in checkout areas.

B. Employee Screening. Retail Establishments, Food Service Establishments and Bars must daily screen each employee to ensure that no employee who is exhibiting symptoms of COVID-19 is permitted to work. Upon discovering that a current employee has been diagnosed with COVID-19, the establishment shall immediately close and disinfect the building interior. Businesses must notify the public of such closure and shall be permitted to reopen upon certification by the City's Code Enforcement Department, by the contractor licensed by the State of Florida in biomedical waste treatment and disposal.

C. 50% Capacity. Indoor Amusements, Restaurants, Retail Establishments and Bars shall operate at 50% of their indoor capacity, excluding employees, as determined by the Fire Inspector. This capacity limitation shall be modified from time to time as the executive orders from the Governor are amended.

SECTION 6. ENFORCEMENT. Any violation of this Ordinance may be enforced by a member of the City's Policy Department, Fire Department or Code Enforcement Officer as follows:

A. First Offense. An initial violation shall be memorialized by a written warning and staff shall be directed to educate the violator of the substance of this Ordinance. For any first violation of Section 3 of this Ordinance, a violator without a Face Covering shall be supplied one.

B. Second Offense. Punishable by a civil citation of \$50.00.

C. Third or Subsequent Offenses are as follows:

1. Punishable by a civil violation of \$150.00; or

2. An order to cease operation, as a public nuisance, for twenty-four (24) hours. The Commission specifically finds repeat violations of the provision of this Ordinance to be a threat to the public health, safety and welfare of the City.

SECTION 7. SEVERABILITY.

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Ordinance shall continue in full force and effect.

SECTION 8. EFFECTIVE DATE.

Upon passage by two-thirds of the members of the City Commission, this Ordinance shall take effect at 5:00 P.M. on August _____, 2020, without further reading or publication, to address the real and present public health emergency presented by the spread of the COVID-19 virus and shall remain in effect until 12:00 P. M. on _____, 2020, unless such date is otherwise extended by resolution of the City Commission.

THIS ORDINANCE shall be effective immediately upon passage.

PASSED by the City Commission of the City of Marianna, Florida, in special session on the _____ day of August, 2020.

CITY OF MARIANNA, FLORIDA

BY: _____
MAYOR

ATTEST: _____
Kimberly Applewhite, CLERK

Daniel Brady, Ph.D.

Chair

F. Shields McManus

Vice Chair

Antonio Carvajal

Don Gaetz

Glenton "Glen" Gilzean, Jr.

John Grant

JoAnne Leznoff

William "Willie" N. Meggs

Kimberly Bonder Rezanka



State of Florida
COMMISSION ON ETHICS
P.O. Drawer 15709
Tallahassee, Florida 32317-5709

325 John Knox Road
Building E, Suite 200
Tallahassee, Florida 32303

C. Christopher Anderson, III

Executive Director/

General Counsel

Kerrie J. Stillman

Deputy Executive Director

(850) 488-7864 Phone

(850) 488-3077 (FAX)

www.ethics.state.fl.us

"A Public Office is a Public Trust"

August 10, 2020

H. Matthew Fuqua, Esquire

City Attorney

City of Marianna

Via Email

Re: your email of August 5 (City Commissioner John Roberts, Sr.)

Dear Mr. Fuqua:

This letter is the response to your above-referenced inquiry. You write that Commissioner Roberts' sons would lease realty to the City for one dollar per year, in conjunction with a TV producer's show and the making of the realty into a pocket park (urban minipark); that the producer (not the City) will pay for all improvements to the realty; that the City would insure the realty for liability purposes; and that the sons would retain ownership in the realty, in the hope that someday it may be valuable for development purposes.

As you relate, prohibitions of the Code of Ethics potentially at issue are Sections 112.313(3)¹ and 112.3143(3)(a), Florida Statutes. The situation presented apparently will not be prohibited by Section 112.313(3) provided an exemption applies. The less-than-\$500-per-calendar-year exemption of Section 112.313(12)(f), Florida Statutes, apparently will apply; this is because the City will pay only one dollar per year and because the producer, not the City, will pay for all of the improvements to the realty.² Also, the sole source exemption of Section 112.313(12)(e), Florida Statutes, apparently would apply, even if the exemption of Section 112.313(12)(f) would not apply, provided that there is an objective, good faith determination that only the sons' realty will fit the City's needs; see CEO 06-28, CEO 10-4, and CEO 16-7, and note

¹ Section 112.313(7)(a), Florida Statutes, is not at issue under the situation you present because there is no indication from your inquiry that the Commissioner, himself, as opposed to his sons, holds any relevant employment or contractual relationship; and the holding of a conflicting employment or contractual relationship is an essential element necessary to trigger Section 112.313(7)(a).

² However, if the City's cost to insure the realty for liability purposes exceeds \$500 per calendar year, the exemption apparently will not apply. See CEO 98-25 and CEO 77-176.

H. Matthew Fuqua, Esquire
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that this exemption, unlike the exemption of Section 112.313(12)(f), requires disclosure prior to the transaction and use of CE Form 4A (printable at www.ethics.state.fl.us).

As to the voting conflicts law, Section 112.3143(3)(a), Florida Statutes, apparently it will apply to the Commissioner as to any measure (vote) of the City Commission as to the show/park/realty, as such apparently would affect the economic interests of his relatives (sons); see Section 112.3143(1)(d), Florida Statutes. Compliance with Section 112.3143(3)(a) requires disclosure prior to the vote, abstention from the vote, and timely filing of CE Form 8B (printable from the Commission on Ethics website).

If I have misunderstood any material facts of your inquiry, please contact me. In addition, please contact me if you have any questions.

Sincerely,

C. Christopher Anderson III

C. Christopher Anderson, III
Executive Director

REAL PROPERTY WAIVER AND AGREEMENT

This Real Property Waiver and Agreement (this "Agreement") is made August 4, 2020 by and between Deutsche Leasing USA, Inc., a Delaware Corporation located at 190 S. LaSalle Street, Ste. 2150, Chicago, IL 60603 ("Creditor") and City of Marianna located at 2898 Green Street, Marianna, FL 32446 ("Waiving Party").

Background

- A. The Waiving Party is the Landlord of the premises located at 3595 Industrial Park Dr Marianna, Florida 32446-8092 (the "Premises") and the Premises are now occupied in whole or in part by Meno Enterprises, LLC (the "Company");
- B. Company desires to lease or finance certain equipment (as described below, the "Collateral") that is or now or hereafter may become subject to a lease or finance agreement between Creditor and Company (the "Financing Agreement") and such Collateral is already on or is to be delivered to or installed on the Premises and will be used in connection with the business of Company as now or hereafter conducted; and
- C. Creditor is willing to lease or finance the Collateral to Company provided that the Waiving Party recognizes Creditor's interest in and to the Collateral and agrees to the other terms stated herein below.

Accordingly, the parties agree as follows:

1. The Collateral is: Ten (10) Swiss Performance Chemicals Panthera Printer S4 and will be deemed to include all replacements and additions thereto plus all proceeds, assets, rights and interests hereafter arising therefrom.
2. Title to the Collateral or a first priority security interest therein (as applicable) is and will remain with Creditor until all of Company's obligations to Creditor are paid and satisfied in full.
3. All the Collateral may be kept, installed and operated in or on the Premises and will be deemed to remain personal property, and not fixtures, despite any attachment of such Collateral to the real estate.
4. The Waiving Party hereby waives and agrees not to assert any lien, claim or interest which the Waiving Party may now have or hereafter may acquire against or in the Collateral by virtue of the Waiving Party's interest in the real property or otherwise.
5. In the event of default by Company in the performance of any of its obligations under the Financing Agreement or any other obligations to Creditor, Creditor may: (a) abandon the Collateral in place; or (b) remove the Collateral from the Premises. If Creditor removes the Collateral, (i) Creditor agrees to be responsible for any damage to the Premises caused by such removal and (ii) if the Collateral was attached to a floor, wall or another element of the Premises, Creditor agrees to restore such element to its condition immediately prior to such attachment, ordinary wear and tear excepted.
6. Creditor may, upon reasonable advance notice, enter upon the Premises to inspect the Collateral, provided that such entry occurs only during normal business hours and will not disrupt the business of any occupant.
7. This Agreement will be for the benefit of, and will be binding upon, the successors and assigns of Creditor and the Waiving Party. This Agreement will continue in full force until all of Company's obligations to Creditor are paid and satisfied in full.

<p>Waiving Party: City of Marianna, Florida</p> <p>If the Waiving Party is the landlord/owner and the person signing below is signing as the landlord/owner's property manager/agent, the legal entity name of the manager/agent company is _____, and such person represents that he/she has authority to sign on behalf of, and bind, the landlord.</p>	<p>Deutsche Leasing USA, Inc.</p>
<p>Signature:</p>	<p>Signature:</p>
<p>Print Name:</p>	<p>Print Name:</p>
<p>Title:</p>	<p>Title:</p>