

## City of Thomasville Emergency Called Council Meeting, March 24, 2020

The Council of the City of Thomasville met in a duly noticed Emergency Called Meeting session with Mayor Greg Hobbs presiding and the following Councilmembers present: Mayor Pro Tem David Hufstetler; and Councilmembers Jay Flowers, Todd Mobley and Wanda Warren. Also present was City Manager, J. Alan Carson; City Attorney, Tim Sanders; other staff, members of the press and citizens. The meeting was held in Council Chambers at 144 East Jackson Street, Thomasville, Georgia.

It shall be noted this emergency called meeting was convened for the purpose of updating the City of Thomasville Code of Ordinances, Chapter 7 captioned "Emergency Management." and to Declare a Local State of Emergency to enable the leadership of the City of Thomasville to help stop the spread of COVID-19, the novel strain of coronavirus in regards to the coronavirus pandemic (as declared by the World Health Organization earlier in March 2020).

### CALL TO ORDER

Mayor Greg Hobbs called the meeting to order at 6:00 PM.

### INVOCATION

Councilmember Jay Flowers led the Invocation.

### PLEDGE OF ALLEGIANCE

Mayor Pro Tem David Hufstetler led the Pledge of Allegiance.

### ADOPT AGENDA

Councilmember Flowers motioned to adopt the agenda as presented, with no exceptions. Councilmember Mobley seconded. There was no further discussion. The motion passed 5-0, with the following votes recorded:

AYES: Mayor Hobbs, Mayor Pro Tem Hufstetler and Councilmembers Flowers, Mobley and Warren.

### OLD BUSINESS

There was no old business considered at this meeting.

### NEW BUSINESS

**Consider a resolution of emergency for the first and second reading at this meeting of an ordinance to Delete in its entirety Chapter 7, Captioned "Emergency Management", of the City of Thomasville Code of Ordinances and replace the same with a new Chapter 7, Captioned "Emergency Management."**

City Attorney, Tim Sanders, reported pursuant to the City of Thomasville Code of Ordinances, Chapter 2, Section 2-2., captioned "Procedure for passage of ordinance.", the procedure to adopt proposed ordinances is that ordinances shall be read and voted on at two separate meetings before the ordinance is finally enacted, unless in the opinion of the City Council, an emergency exists demanding passage at one meeting. Sanders requested Council consider that, in the interest of public health and safety and due to an abundance of caution in the face of the Coronavirus Disease 2019 (Covid-19) Pandemic, and to provide updated emergency management powers and procedures, there exists an emergency status of need requiring the adoption of an Ordinance to Delete in its entirety Chapter 7, Captioned "Emergency Management", of the City of Thomasville Code of Ordinances and replace the same with a new Chapter 7, Captioned "Emergency Management." on first and second readings at this one meeting.

Mayor Pro Tem Hufstetler motioned to approve the resolution of emergency for the first and second reading at this meeting of an ordinance to Delete in its entirety Chapter 7, Captioned "Emergency Management", of the City of

Thomasville Code of Ordinances and replace the same with a new Chapter 7, Captioned "Emergency Management", as presented. Councilmember Mobley seconded. Discussion ensued.

Mayor Hobbs and Councilmember Warren stated they were opposed to the approval of the resolution of emergency, as well as the adoption of the proposed ordinance to delete the current Chapter 7 of the code of ordinances and replacement of the same as presented. Mayor Hobbs and Councilmember Warren cited apprehensions regarding the haste in which the resolution and the proposed ordinance were prepared, the surrender of an over-abundance of power to the City Manager during this pandemic without Council input and that the public has not had enough time to review the proposed ordinance. Mayor Hobbs also noted the ordinance did not provide for proper checks and balances regarding the amount of expenditures without prior Council approval.

City Attorney noted the approval of the resolution of emergency provides for an ordinance to be read on first and second reading and adopted in one meeting as the City's code of ordinances allows. However, the approval of the resolution of emergency requires an affirmative vote of four (4) Councilmembers to provide for that action. He reviewed Chapter 2, Section 2-2 of the City of Thomasville's Code of Ordinances. Following the approval of resolution of emergency to read an ordinance for the first and second time at one meeting and adopted, a second and separate action must be taken for the consideration of ordinance adoption under the stated emergency.

Councilmember Warren noted Council was being asked to consider totally deleting a policy which has been in place for many years; one that the City of Thomasville has operated under through many emergency situations. Councilmember Warren read from the following statement in reference to the discussion of the resolution of emergency and the ordinance under consideration at this meeting:

*To the Citizens of Thomasville:*

*This city does not need to rush to enact a policy which may not be beneficial to the citizens of this city. This city council is being asked to totally delete a policy which may only require a few minor changes and implement a policy which is not merited and which is in direct conflict with the Emergency Management agreement with Thomas County. This is the agreement that this city has been operating under and which has addressed every emergency that this city has encountered.*

*Orders that are this crucial should not be decided on with an administrative order by a city employee (as suggested in this new Chapter 7 ordinance), but by an executive order by the officials elected by the people of this city.*

*It is understood that the COVID-19 virus is a new issue in which this city has not had to address in the past. However, every contingency that this City's leadership and the County's leadership can determine which need to be addressed has been addressed through either the current emergency management agreement with the County or can be addressed through a resolution, declaration or executive order by the City Council.*

*I whole-heartedly agree that the people are requesting, and the city may need to provide guidance and directives to the citizens regarding the COVID-19 virus, if not already provided by the Emergency Management Director.*

*I agree any communication to citizens should be expedient and accurate to help decrease the spread of this virus.*

*The provisions proposed in this new ordinance which have already been addressed within the agreement with the county include:*

- i. The ability to declare a state of emergency.*
- ii. The ability to end or continue a state of emergency.*
- iii. Activation of an emergency operations plan which has already been established and well-tested through many years of emergencies in this city and county.*
- iv. Nine other additional powers listed in the draft document.*

*In my opinion, two of the biggest concerns that citizens may have, which is not included in this proposed new Chapter 7 ordinance is:*

- i. The ability to request state assistance. State assistance is requested by the County in accordance with the state required procedures whereby the County requests state assistance. Any assistance received is always sent to the city accordingly.*

- ii. *There is no provision to continue city business to ensure the affairs and business of the city can continue to be conducted. Even through an emergency, it is even more crucial that the officials elected by the citizens be involved in the operations of the city. Even though the council meetings may by necessity look a little different, these meetings are still needed. The ability to hold meetings via teleconference has been proven to be effective for many years now.*

*To be fair, there is at least one item I'm sure most, if not all citizens will appreciate and it is giving authority to suspend utility disconnections for non-payment during the duration of the declared emergency. However, a policy is not needed to do this. Council only need to issue an executive order, resolution or declaration.*

*To add to my argument that an emergency management ordinance is not needed before the city manager can carry out the activities stated in this document, the City Manager has already taken action on at least one thing which is listed in this document:*

- i. *He has already temporarily closed or limited city buildings to the general public.*

\*\*\* Conclusion of Statement Provided by Councilmember Warren \*\*\*

Mayor Hobbs inquired if the City's adoption of a new emergency management policy that is different from the County's emergency management policy would change any agreements with the County. It was noted that it would not affect any agreements.

Councilmember Flowers inquired if the resolution of emergency was not approved at this meeting, could the proposed ordinance be heard on first reading and if so, how soon could a subsequent meeting be held for the Council's consideration of the second reading of the proposed ordinance.

Attorney Sanders reported if the resolution of emergency was not approved at this meeting, the proposed ordinance could then be heard on the first reading, passed and carried over to be read for a second time during a subsequent meeting. There was not a time line regarding a subsequent meeting.

City Manager Carson noted the effects of the novel coronavirus are unprecedented; and, while the updates regarding the Emergency Management ordinance may be unique to the City of Thomasville, it is not unique to many governments in their preparations for emergencies in the face of any disaster where precautions to this measure must be taken. Carson reviewed various scenarios of disasters, including ones in which Councilmembers were quarantined or medically incapacitated, rendering them as physically unable to meet in the same room. Reiterating the importance of Council being able to govern through times of disaster, Carson explained this Emergency Management ordinance provides for the City of Thomasville to continue to operate during disasters with requirements of copious recordkeeping and communication. Carson also noted the passage of this ordinance provides a City Manager with the flexibility needed during a disaster, such as the global coronavirus/covid-19 pandemic, where there is constant and fluid changes taking place at unprecedented speeds.

Councilmember Mobley inquired if the ordinance could be amended at a later date if Council determine that a City Manager had overreached with the powers provided during an emergency declaration. City Attorney affirmed that it could be and further noted as an ordinance it would require two readings at two separate Council meetings or at one Council meeting under resolution of emergency.

Mayor Pro Tem Hufstetler reported having received concerns from two County Commissioners regarding the proposed ordinance. The concerns were unfounded when it was explained to them that the ordinance does not interfere with the private property. Mayor Pro Tem Hufstetler also noted Councilmembers have had ample time to review and work through their concerns of the proposed ordinance prior to this meeting.

Following Council's discussion regarding the resolution of emergency and the proposed ordinance, the motion made by Mayor Pro Tem Hufstetler, and seconded by Councilmember Mobley, to approve a resolution of emergency for the first and second reading of an ordinance to delete Chapter 7 and replace the same with a new Chapter 7 remained unchanged. Mayor Hobbs called for a roll-call vote of Councilmembers. The motion failed 3-2 (vote requires four (4) affirmatives for passage), with the following votes recorded:

AYES: Mayor Pro Tem Hufstetler, Councilmembers Mobley and Flowers  
NAYS: Mayor Hobbs, Councilmember Warren

**Consider on first reading, an Ordinance to Delete in its entirety Chapter 7, Captioned “Emergency Management”, of the City of Thomasville Code of Ordinances and replace the same with a new Chapter 7, Captioned “Emergency Management.”**

City Attorney, Tim Sanders, reported that with the immediately preceding failed motion to approve the resolution of emergency to adopt this ordinance on the first and second reading at this one meeting, amended Council consideration of this agenda item to the first reading of an ordinance to delete in its entirety Chapter 7, Captioned “Emergency Management”, of the City of Thomasville Code of Ordinances and replace the same with a new Chapter 7, Captioned “Emergency Management.” City Attorney Sanders provided a summary of the proposed ordinance.

The proposed new Chapter 7 will update and expand the emergency procedures and powers of the City. The ordinance will only become active in one of two instances:

1. Upon a declaration of a state of emergency by the Governor that is statewide; or that encompasses Thomas County or encompasses only the City of Thomasville; which is then followed by a Local Declaration of Emergency by the City Council. It takes both actions to activate the ordinance; or,
2. Upon a declaration of a Local State of Emergency by the City Council independent of any state action.

Attorney Sanders noted that without one of these steps having been taken, the emergency powers that are described in the ordinance may not be exercised.

The ordinance clarifies that once in a State of Emergency, the City’s ordinances and regulations inconsistent with any Executive Order issued by the Governor, or Title 39 of the Georgia Code, are suspended but otherwise all ordinances and regulations remain in effect.

The ordinance requires that the powers and the functions of the City during a State of Emergency must be exercised in light of, and in a timely manner, commiserate with the exigencies of the emergency. In other words, the exercise, power and actions taken during the emergency must be proportionate to the situation at hand.

The ordinance primarily serves to clarify, and in some of the cases expand, the powers and actions that may be taken by the City Manager during the Declared State of Emergency. Once the State of Emergency is over, the powers and actions authorized recede.

Separate accounting of the funds expended in connection with the Declared Emergency must be maintained and provided to the City Council.

The following are some examples of actions and powers that are authorized for the City Manager without a vote of City Council under this proposed ordinance:

- To direct evacuations.
- To temporarily increase or modify employee compensation.
- To temporarily suspend utility disconnections for non-payment.
- To perform such other functions and powers that are necessary to protect civilian populations.
- To enter into emergency Public Works contracts.
- To allow temporary dwellings that are otherwise not permitted by zoning ordinances.
- To restrict reentry into designated public areas and public property.
- To prohibit gatherings of people on public property.
- To close city buildings and offices to the general public.

The following are examples of powers and actions that the City Manager can take that can only be done with a City Council vote:

- The wholesale suspension or enforcement of ordinances, or portion of ordinances.
- The restriction of travel on public streets and other public grounds.

Mayor Pro Tem Hufstetler motioned to order the first reading of an ordinance to delete in its entirety Chapter 7, Captioned "Emergency Management", of the City of Thomasville Code of Ordinances and replace the same with a new Chapter 7, Captioned "Emergency Management." as presented read for the first time, passed, and carried over. Councilmember Flowers seconded. There was no further discussion. Mayor Hobbs called for a roll-call vote of Councilmembers. The motion passed 3-2, with the following votes recorded:

AYES: Mayor Pro Tem Hufstetler, Councilmembers Mobley and Flowers

NAYS: Mayor Hobbs, Councilmember Warren

The title of ordinance ordered read for the first time, passed and carried over follows.

AN ORDINANCE TO DELETE IN ITS ENTIRETY CHAPTER 7, CAPTIONED EMERGENCY MANAGEMENT, OF THE CITY OF THOMASVILLE CODE OF ORDINANCES AND TO REPLACE THE FORGOING WITH A NEW CHAPTER 7, ALSO CAPTIONED EMERGENCY MANAGEMENT; TO PROVIDE FOR UPDATED EMERGENCY MANAGEMENT PROCEDURES AND POWERS; TO PROVIDE FOR AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

**Consider a resolution of emergency for the first and second reading at this meeting of an Ordinance to Declare a Local State of Emergency and Authorize Meetings in conformity with O.C.G.A. § 50-14-1(g).**

City Attorney, Tim Sanders, again reported pursuant to the City of Thomasville Code of Ordinances, Chapter 2, Section 2-2., captioned "Procedure for passage of ordinance.", the procedure to adopt proposed ordinances is that ordinances shall be read and voted on at two separate meetings before the ordinance is finally enacted, unless in the opinion of the City Council, an emergency exists demanding passage at one meeting. Attorney Sanders noted the purpose of the proposed ordinance to Declare a Local State of Emergency is something that can be taken independently of Chapter 7. The proposed ordinance provides for Council to declare a Local State of Emergency and allows Council to meet without creating a congregation as per Governor's Executive Order.

Mayor Pro Tem Hufstetler motioned to approve a resolution of emergency for the first and second reading at this meeting of an Ordinance to Declare a Local State of Emergency and Authorize Meetings in conformity with O.C.G.A. § 50-14-1(g). Councilmember Mobley seconded. There was no further discussion. The motion passed 5-0, with the following votes recorded:

AYES: Mayor Hobbs, Mayor Pro Tem Hufstetler and Councilmembers Flowers, Mobley and Warren.

The approved Resolution of Emergency follows.

### RESOLUTION

BE IT RESOLVED, that in the interest of public health and safety and in an effort to curb the spread of the Coronavirus Disease 2019 (Covid-19) in the City of Thomasville and surrounding communities, there exists an emergency status of need requiring the adoption of an Ordinance to Declare a Local State of Emergency and Authorize Meetings in conformity with O.C.G.A. § 50-14-1(g) on first and second readings at this one meeting.

SO DONE this the 24<sup>th</sup> day of March, 2020.

**Consider on first and second reading, under resolution of emergency, an Ordinance to Declare a Local State of Emergency and Authorize Meetings in conformity with O.C.G.A. § 50-14-1(g).**

City Attorney, Tim Sanders, presented the proposed ordinance to Declare a Local State of Emergency and Authorize Meetings in conformity with O.C.G.A. § 50-14-1(g). Attorney Sanders noted, as stated during the discussion of the resolution of emergency for the ordinance, the purpose of the proposed ordinance to Declare a Local State of Emergency is something that can be taken independently of Chapter 7. The proposed ordinance provides for Council to declare a Local State of Emergency and allows Council to meet without creating a congregation of persons, as per Governor's Executive Order, while remaining in compliance with the Open Meetings Act.

Councilmember Flowers motioned to consider the ordinance to declare a Local State of Emergency and Authorize Meetings in conformity with O.C.G.A. § 50-14-1(g) as ordered read for the first and second time, under resolution of emergency, passed and adopted at this one meeting. Councilmember Mobley seconded.

Discussion ensued regarding potential disconnections of utilities during this emergency. It was noted that upon the adoption of the ordinance to update Chapter 7, captioned "Emergency Management", the City Manager will be authorized to suspend utility disconnections resulting from non-payment. City Manager Carson noted this action is only authorized for the amount of time stated by the Declaration of Local State of Emergency. Citizens are encouraged to be responsible and pay their utility bills; however, during the Local State of Emergency if they are unable to pay the balance due, designated City staff will work with them to coordinate payment arrangements. Councilmember Warren reported the majority of revenues for the City of Thomasville comes from its utilities and implored citizens to pay their utility bills in a responsible manner.

It was noted that the Declaration of Local State of Emergency is activated as thirty (30) days; at which time the state of emergency will expire, unless Council terminates the state of emergency prior to thirty (30) days or necessitates an extension. City Manager Carson stated that in every case, he and staff will do the very best that can be done to help citizens and the City of Thomasville through this time of crisis and to be able to move forward when the crisis is over.

Following the discussion, the motion remained unchanged as Councilmember Flowers motioned to order the ordinance to Declare a Local State of Emergency and Authorize Meetings in conformity with O.C.G.A. § 50-14-1(g), as presented, read for the first and second time at this meeting under resolution of emergency. Councilmember Mobley seconded. There was no further discussion. The motion passed 5-0, with the following votes recorded:

AYES: Mayor Hobbs, Mayor Pro Tem Hufstetler and Councilmembers Flowers, Mobley and Warren.

The ordinance ordered read for the first and second time, under resolution of emergency, passed and adopted at this meeting follows.

AN ORDINANCE TO DECLARE A LOCAL STATE OF EMERGENCY IN RESPONSE TO THE PROLIFERATION OF THE NOVEL CORONA VIRUS 2019 (COVID-19) BY THE CITY COUNCIL OF THE CITY OF THOMASVILLE; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR AN EXPIRATION DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

SECTION ONE

WHEREAS, the President of the United States declared a National Public Health Emergency on Friday, March 13, 2020;

WHEREAS, the Governor of the State of Georgia declared a Public Health State of Emergency in Georgia on March 14, 2020 and the Georgia General Assembly concurred with such declaration on March 16, 2020;

WHEREAS, COVID-19 is officially a global health pandemic according to the World Health Organization;

WHEREAS, the Centers for Prevention and Disease Control ("CDC") has issued guidance on the rapidly evolving situation, including steps that can be taken to prevent the continued spread of the illness, including but not limited to social distancing;

WHEREAS; a number of cities and unified governments, including but not limited to Atlanta, Athens-Clarke County, LaGrange, and Adel, have taken steps to attempt to curb the spread

of COVID-19, including but not limited to (i) banning large public gatherings in public places; (ii) closing city offices and buildings to the general public; and (iii) authorizing the governing bodies of such cities and related boards and commissions to conduct public meetings and take votes by teleconference in conformity and accordance with O.C.G.A. § 50-14-1(g);

WHEREAS, Section 1.12(c)(8) of the Charter of the City of Thomasville provides that the City of Thomasville is authorized “To establish procedures for determining and proclaiming that an emergency situation exists within or without the city and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health, or well-being of the citizens of the city;”

WHEREAS, if COVID-19 spreads in the City of Thomasville and the rest of Georgia, at a rate comparable to the rate of spread in other affected areas, it is likely to greatly strain the resources and capabilities of local and state governments, including those of the City of Thomasville;

WHEREAS, in the judgement of the City Council of the City of Thomasville, there exist emergency circumstances as a result of COVID-19 within the territorial limits of the City of Thomasville requiring extraordinary and immediate corrective actions for the protection of the health, safety and welfare of the citizens of Thomasville and surrounding communities; and

WHEREAS, additional measures may be required in the coming days and weeks to address and stem the spread of COVID-19, which is fluid and evolving, and such measures will likely need to be executed quickly and free from the usual formalities and procedures required for City action in light of the exigencies of the emergency situation resulting from COVID-19.

## SECTION TWO

NOW THEREFORE BE IT ORDAINED, that the City Council adopts and makes the findings recited above as factual findings of the City Council.

## SECTION THREE

BE IT FURTHER ORDAINED, that the City Council of the City of Thomasville hereby declares a state of emergency due to a Public Health Emergency in the form of the rapid spread of COVID-19 in the United States and the State of Georgia, effective immediately upon the passage of this Ordinance and expiring at 11:59 p.m. on April 23, 2020, unless sooner terminated or extended by further action of the City Council of the City of Thomasville.

## SECTION FOUR

BE IT FURTHER ORDAINED, that during the state of emergency declared by this ordinance and any modifications and extensions hereof, that the City Council of the City of Thomasville and all other boards and commissions or agencies of the City of Thomasville are authorized to conduct meetings and takes votes by teleconference in pursuant to and in conformity with the requirements of O.C.G.A. § 50-14-1(g), which requires that the public be afforded means of simultaneous access to such meetings held under

## SECTION FIVE

BE IT FURTHER ORDAINED all ordinances or parts of ordinances in conflict herewith are hereby suspended during the effective dates of this Ordinance and any extensions or modifications hereof and the terms of this Ordinance shall prevail.

## SECTION SIX

BE IT FURTHER ORDAINED and it is hereby declared to be the intention of the Mayor and Council of the City of Thomasville that all sections, paragraphs, sentences, clauses, and phrase of this Ordinance are and were, upon their enactment, believed by the Mayor and the Council to be fully valid, enforceable, and constitutional.

SECTION SEVEN

BE IT FURTHER ORDAINED and it is hereby declared by the Mayor and the Council of the City of Thomasville that (i) to the greatest extent allowed by law, each and every section paragraph sentence, clause or phrase of this Ordinance is severable from every other section paragraph sentence, clause or phrase of this Ordinance and (ii) that to the greatest extent allowed by law, no section paragraph, sentence, clause or phrase of his Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of his Ordinance.

SECTION EIGHT

BE IT FURTHER ORDAINED and it is hereby declared that in the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgement or decree of any court of competent jurisdiction, it is the express intent of the Mayor and the Council of the City of Thomasville that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or section of the Ordinance and that to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION NINE

This ordinance was introduced and read at a lawful meeting of the Council of the City of Thomasville held on March 24, 2020, and read the second time, passed and adopted in like manner at the same meeting, under resolution of emergency pursuant to City of Thomasville Ordinance Section 2-2.

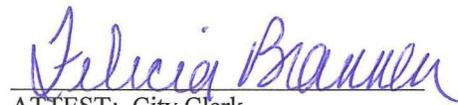
SO ORDAINED, this 24<sup>th</sup> of March, 2020.

Following the adoption of the ordinance to Declare a Local State of Emergency, the consensus of Councilmembers was unanimous in favor to convene an Emergency Called Council Meeting within twenty-four hours for the consideration of the second reading of the ordinance to Delete in its entirety Chapter 7, Captioned "Emergency Management", of the City of Thomasville Code of Ordinances and replace the same with a new Chapter 7, Captioned "Emergency Management."

ADJOURNMENT

Having no other business to discuss the Emergency Called City Council Meeting was adjourned at 7:00 PM.

  
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Mayor, Greg Hobbs

  
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ATTEST: City Clerk

[seal]

