

Dunnellon City Council Minutes
November 9, 2015
5:30 p.m.

Call to Order – Mayor Whitt at 5:30 p.m.

Pledge of Allegiance – Led by Mayor Whitt

Opening Prayer/Moment of Silence - Pastor Tom Welch provided the invocation.

Roll Call

| Council | | Staff |
|-----------------------------|---------------|--|
| Mayor Whitt | Seat 1 | Eddie Esch, City Manager |
| Vice Mayor Evans | Seat 2 | Dawn Bowne, City Clerk |
| Councilwoman Fleeger | Seat 3 | Joe Campfield, Public Safety Director |
| Councilman Dillon | Seat 4 | Virginia Cassady, City Attorney |
| Councilman Green | Seat 5 | Lynn Wyland, Staff Assistant |

Fire Chief Campfield left the meeting at approximately 6:52 p.m.

Councilwoman Fleeger left the meeting at approximately 9:45 p.m.

Proof of Publication – The Agenda was posted on the City's website and City Hall bulletin board on Friday, November 6, 2015.

Chairman's Comments Regarding Agenda

Mayor Whitt moved Items #3 and #8 to the beginning of the agenda, before **Public Comments** and the **Consent Agenda**. He asked all to proceed to the memorial in front of City Hall for a special Veteran's Day presentation.

6. PRESENTATION OF PROCLAMATION #PRO2015-06, VETERANS DAY

The following donated items in honor of Veteran's Day:

- Jerri Gibbs, of Turner House, donated the flowers for the memorial
- Lowes Home Improvement donated 100 flags
- Paul Cowan, Jr. donated flags

Mayor Whitt read the following proclamation:

“PROCLAMATION #PRO2015-06
VETERANS DAY

WHEREAS, Since the birth of our Nation, American patriots have stepped forward to serve our country and defend our way of life. With honor and distinction, generations of servicemen and women have taken up arms to win our independence, preserve our Union, and secure our freedom. These heroes have put their lives on the line so that we might live in a world that is safer, freer and more just. We owe them a profound debt of gratitude; and

WHEREAS, American's throughout this nation have set aside Veterans Day for special remembrance of the Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen who have rendered the highest service any American can offer. On this day we salute and we rededicate ourselves to fulfilling our commitment to all those who serve in our name, and as more members of our military return to civilian life, we must support their transition and make sure they have access to the resources and benefits they have earned; and

WHEREAS, Today we are reminded of our solemn obligation: to serve our veterans as well as they have served us. As a Nation, we must ensure that every veteran has the chance to share in the opportunity he or she has helped to defend. Those who have served in our Armed Forces have the experience, skills, and dedication necessary to achieve success as members of our civilian workforce. Our Nation must dedicate itself to ending the tragedy of homelessness among our veterans by providing them with quality health care, access to education and the tools they need to find a rewarding career; and

WHEREAS, We recognize the sacrifice of those who have been part of the finest fighting force the world has ever known and the loved ones who stand beside them. We will never forget the heroes who made the ultimate sacrifice and all those who have not yet returned home. The sound of taps will fill the air at countless ceremonies around the country and at our bases overseas in tribute to those who gave their lives. On this special day, our hearts and prayers also turn to those who were disabled while serving their country; and

WHEREAS, the United States Congress has declared that November 11th of each year shall be set aside as a legal public holiday to honor our Nation's veterans.

NOW, THEREFORE, the City Council of the City of Dunnellon hereby acknowledges Wednesday, November 11, 2015 as VETERANS DAY in the City of Dunnellon. We encourage all Americans to recognize the valor and sacrifice of our veterans through appropriate public ceremonies and private prayers; by displaying the flag of the United States of America; and participating in patriotic activities in their communities.

PASSED and PROCLAIMED this 9th day of November 2015.”

Gladys Murphy, from the American Legion and several members of the military accepted the proclamation.

8. SPECIAL PRESENTATION BY DUNNELLON CITY COUNCIL TO LT. BRIAN SPIVEY

Mayor Whitt made a presentation to former Lieutenant, now “Captain” Brian Spivey, from the Marion County Sheriff’s Office. Captain Spivey’s family and Sheriff Blair were also present. Mayor Whitt presented Captain Spivey with a plaque and thanked him for his service to the City.

Public Comments

Comments from the following were deferred to the Comp Plan public hearing:

- Kathryn Taubert, 19436 SW 101st Place Rd., Rainbow Springs
- Bill Vibbert, 9552 SW 192nd Court Rd., Rainbow Springs

CONSENT AGENDA

(Note: Motion to approve items on the consent agenda is a motion to approve the recommended actions.)

1 CITY COUNCIL WORKSHOP MINUTES

September 9, 2015
October 7, 2015

Documents: [cwm20150909.pdf](#), [cwm20151007.pdf](#)

2. CITY COUNCIL MINUTES

August 26, 2015 Special
September 14, 2015
September 28, 2015 Special
October 12, 2015

Documents: [cmm20150826_Special.pdf](#), [cmm20150914.pdf](#),
[cmm20150928_Special.pdf](#), [cmm20151012.pdf](#)

3. APPROVE PROCLAMATION #PRO2015-06, VETERANS DAY

Documents: [2015_06_Veterans Day.pdf](#)

4. AUTHORIZE PURCHASE REQUESTS FOR GRINDER PUMP EXCHANGE PROGRAM FY 2016 WITH WRT

Documents: [Grinder Pump Xchg POR with backup.pdf](#)

5. AUTHORIZE MAYOR TO SIGN AMENDMENT #4 TO #AGR2012-97 - IPO 4 WITH KIMLEY HORN, FOR US41/SR45 EAST MCKINNEY WATER MAIN REPLACEMENT

Documents: [AGR2012_97Amend4toIPO41_US41SP45EMcKinneyWaterMain.pdf](#)

CONSENT AGENDA APPROVAL

Vice-Mayor Evans recommended a correction to the City Council meeting minutes of September 28, 2015, on Page 12. The sentence should read as follows: "Vice-Mayor Evans reported on the BOCC approving the TDC recommended bed tax."

Mrs. Bowne made the correction to the minutes.

Councilman Dillon moved the consent agenda be approved with Vice-Mayor Evans' recommended correction. Councilwoman Fleeger seconded the motion. The vote was taken and all were in favor. The vote was 5-0.

REGULAR AGENDA

7. NOVEMBER 21ST - RAINBOW SPRINGS ART FESTIVAL - SUSAN JONES

Susan Jones, Rainbow Springs Art Association, stated the art festival will be held at the Dunnellon Plaza on Saturday, November 21, 2015 from 10:00 a.m. to 4:00 p.m. She said the goal of the festival is to bring local artists together. She stated the event is supported by local businesses and in partnership with the DBA, Friends of Dunnellon and the Chamber of Commerce.

Councilman Dillon recommended waiving the permit fee.

Mr. Esch explained the site inspection of the tent, is established by an ordinance and State Statute. He said he would research waiving the permit fee.

9. RESOLUTION #RES2015-36, PERSONNEL MANUAL AMENDMENT

Councilman Dillon moved Resolution #RES2015-36 be read by title only. Councilwoman Fleeger seconded the motion. The vote was taken and all were in favor. The vote was 5-0.

Mrs. Bowne read the following into the record:

“RESOLUTION #RES2015-36

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF DUNNELLON ADOPTING PERSONNEL MANUAL AMENDMENTS AND CHANGES TO ARTICLE X, SECTION 6.1 PAY AND CLASSIFICATION PLAN; 6.2 – PAY CLASSIFICATION BY GRADE – OTHER AND PROVIDING FOR AN EFFECTIVE DATE.”

Councilman Fleeger moved Resolution #RES2015-36 be approved. Councilman Dillon seconded the motion.

Mayor Whitt called for discussion. There was none.

The vote was taken and all were in favor. The vote was 5-0.

Documents: [RES2015_36_Personnelmanualamend_pay_classificationplan.pdf](#)

10. PUBLIC HEARING ORDINANCE #ORD2015-10, COMPREHENSIVE PLAN AMENDMENT #CPA2015-01 (Advertised in the Ocala Star Banner on 11/4/2015, in the Riverland News on 11/5/2015 and on the City's website on 10/30-2015)

Mayor Whitt stated, "All persons wishing to address the City Council will be asked to limit their comments to the specific subject being addressed. Public opinions and input are valued by the Council. However, it is requested that comments are directed at specific issues rather than personal comments directed toward the Council members or staff in order to foster mutual respect between council members and the public.

Members of the public in attendance at public forums should listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

Members of the public addressing City Council and boards/commissions on a specific project or proposal are requested to disclose any personal interest or relationship; and any business, professional, or financial interests with any individual, group, project or proposal regarding the subject matter under review. Members of the public should always err on the side of more public disclosure, not less, in order to provide integrity to the public process."

Mayor Whitt gaveled down and stated, "It is now 6:04 p.m. and I close the regular meeting and open the public hearing to discuss: Ordinance #ORD2015-10, Comp Plan Amendments, #CPA2015-01, published in the Ocala Star Banner on November 04, 2015, in the Riverland News on November 5, 2015 and posted on the City's Website October 30, 2015."

Attorney Cassady presented staff comments. She stated the City transmitted the Comprehensive Plan and the following four Elements: *The Future Land Use Element, Conservation Element, Public Facilities Element and the Aquifer Protection Element* to DEO and other agencies pursuant to the Community Planning Act. She stated the City received two or three comments back from the agencies, one being from the North Regional Planning Council, recommending a change to one part of the Conservation Element, which she will discuss later in the hearing. She provided the following:

II. Background

As a result of public sentiment, in the Fall, 2014, the City Council tasked the Planning Commission, the City's local planning agency, with reviewing the Comprehensive Plan to consider whether the Comprehensive Plan provisions requiring a 150-foot waterfront setback along the rivers and navigable coves, adopted in 2008, should be changed to reduce the setback.

While reviewing the goals, objectives, and policies (“GOP’s”) of the Comprehensive Plan to determine what provisions would require amending to avoid inconsistent terms if the waterfront setback was changed,² the City’s planner consultant found numerous GOP’s which were obsolete, inconsistent with State law, or were more suitable, due to their regulatory detail, for placement in the land development regulations.³ Therefore, in addition to proposing changes which would be necessary if the waterfront setback provisions were changed, he proposed additional changes to other Elements as well.

As is customary, the City’s planner consulted with the city attorney regarding the changes and proper wording. While reviewing the planner’s proposed changes, the city attorney found additional GOP’s which needed correction due to inconsistencies with current State law. Also, the city attorney questioned whether the Comprehensive Plan properly reflected the City’s policies regarding the eventual elimination of structures built prior to 2008 within the 150-foot waterfront setback, which were made nonconforming by Future Land Use Element Objective 4 and policies therein.

During the revision and review process by the planner and city attorney, the Community Development Department was approached by an attorney for an owner of vacant property in the Nine Island Cove Subdivision regarding the land use and zoning of the parcels owned by his client. When researching the future land use designation and zoning for the parcels in question, the planner and city attorney found that the parcels had been re-designated from residential to conservation on the future land use map in 2008. In the best interests of the City, a proposed

text change to Policy 1.10 of the Future Land Use Element was added to the Comprehensive Plan amendments to be considered by the Planning Commission.

Also during the review process, concern was raised by City Council and some owners of residences which had been made nonconforming due to legislative creation of the water-oriented commercial zoning district (B-6), which prohibited residential use. If those residences are destroyed because of a natural disaster, the owners would lose their homes. Future Land Use Element Objective 4 and the policies therein are proposed to be amended to reflect that owners of property with nonconforming structures or structures devoted to nonconforming uses may build back in the event of a natural disaster. The policies also give special consideration to structures within the 150-foot waterfront setback.

III. Procedure

The Planning Commission held two lengthy public hearings on January 20, 2015, and February 17, 2015. As a result of overwhelming public input, the Planning Commission instructed the City’s planner to leave the 150-foot waterfront setback in Conservation Element Policy 9.1 and other policies, but some revisions were made to the policies.

Due to the fact that the City contemplated receiving a grant from DEO to complete the revisions on the Comprehensive Plan, the Planning Commission tabled further consideration of the Plan amendments at its March 17, 2015, public hearing. Because of circumstances out of the City's control, the City was unable to move forward with its application to receive a grant at that time. At its May meeting, City Council passed a motion authorizing staff and the city attorney to resume public hearings regarding the Plan amendments before the Planning Commission. The Planning Commission held two more public hearings on August 4, 2015 and August 18, 2015.

The Plan amendments therefore were presented to the public and considered by the Planning Commission during a total of four public hearings. On August 18, 2015, the Planning Commission voted to recommend the Plan amendments which you are considering on September 14.

Councilman Dillon discussed the Future Land Use Element, Policy 1.4.E.3. He suggested a strike-through on this section. He stated the language in this paragraph is very broad and opens the door for interpretation.

Attorney Cassady stated she would not recommend eliminating this section. She stated it could have consequences and there is not enough time to think it through. She said she is very familiar with water dependent and water oriented uses. She stated when the City submits to the agencies and DEO, we are required to explain any changes that have been made since the transmittal, so that it draws DEO and the other agencies to whatever the changes are so they can determine within their own individual jurisdictions whether this threatens important State facilities or resources or whether they see it being inconsistent with State law in some way. She stated she is concerned because under the Community Planning Act, you cannot create internal inconsistencies you need to consider how that change will affect other potential changes.

Council and staff engaged in discussion regarding the three stipulations of the 150 foot setback located in *Policy 1.4, Sec. E.3* of the Future Land Use Element. Council discussed and agreed this paragraph should be examined further.

Councilman Green agreed with Councilman Dillon on this issue. He stated it is a wide open scope when you say "visual enjoyment of the water."

Mayor Whitt stated he would like to vet this specific change through the Planning Commission. He explained there will be continual changes based on all the concerns of Council and public. He said the Council has tried to remedy this a few items to alleviate some of the inconsistencies and there are more to be addressed.

Attorney Cassady proceeded to explain comments received from NRPC regarding Policy 9.1.A.1 of the Conservation Element regarding lots of record and the setbacks.

Attorney Cassady stated NRPC recommended a buffer strip of 75 feet along the waterfront, citing Sec. 5.10.a of the SFWMD's *Environmental Resource Permit Applicant's Handbook Vol. II* (incorporated by reference in 40D-4.091, F.A.C.). That section of the *Handbook* addresses environmental permitting requirements for rural or minor residential subdivisions, typically designed to have "large multi-acre lots and minimal roadways." She said none of the lots of record recorded before October 27, 2008, involve multi-acre lots, and to the contrary, the lots are small in size, such that a 75-foot waterfront setback could make the lots non-buildable.

Attorney Cassady said she is recommending the following language which will give the Planning Commission and the Planner direction moving forward for the Land Development Code and will satisfy the requirements of the NRPC.

"The minimum setback set forth in this Policy and in Policy 2.1.B for lots of record recorded on or before October 27, 2008 which are vacant as of the effective date of this plan amendment shall be 25 feet or any setback as set forth in any deed restriction or as set forth in any plat provided, however, that the setback must prevent erosion, trap sediments in runoff and filter nutrients."

Council and staff engaged in lengthy discussion regarding the language and lots of record.

Mayor Whitt asked for public comments.

Public Comments were received by the following:

- Kathryn Taubert, 19436 SW 101st Place Rd., Rainbow Springs
- Brenda D'Arville, Chair for the Planning Commission
- Bill Vibbert, 9552 SW 192nd Court Rd., Rainbow Springs
- Mary Ann Hilton, 12078 Palmetto Court, Blue Cove
- Paul Marraffino, 19544 SW 82nd Place Rd., Rainbow Springs

Councilman Green stated he attended several of the Planning Commission meetings and witnessed dedicated people devoting their time to help the City solve its problems.

Vice-Mayor Evans stated he agreed with Councilman Green. He said they have volunteered to devote their time and efforts to help the City.

Mayor Whitt gaveled down and stated, "It is now 8:49 p.m. and I close the public hearing held to discuss Ordinance #ORD2015-10 and reopen the November 9th Council meeting."

11. SECOND READING OF ORDINANCE #ORD2015-10, COMPREHENSIVE PLAN AMENDMENT #CPA2015-01

Council and staff reviewed the following proposed changes:

Future Land Use Element - Page 4, Policy 9.2.E.1-3; **strike-through 1-3**

Future Land Use Element - Page 6, Policy 1.6.C; **correct punctuation to reflect a comma** in: “no individual building shall exceed *3,000 square feet*” (scribbler’s error)

Future Land Use Element - Page 6, Policy 1.6.D; **correct punctuation to reflect a comma** in: “no individual building shall exceed *30,000 square feet*” (scribbler’s errors)

Future Land Use Element – Page 12, Policy 4.1.B.1; should read: “Structures within the riverfront corridor protection area on lots of record recorded on or before October 27, 2008 that are less than 150 feet from the ordinary high water line of rivers, navigable coves, and abutting wetlands, as established by this Comprehensive Plan, are exempt from this Policy 4.1.B.” The remaining paragraph shall be deleted.

Conservation Element, Page 11, Policy 9.1.A.1; should read “The minimum setback set forth in this Policy and in Policy 2.1.B for lots of record recorded on or before October 27, 2008 which are vacate as of the effective date of this plan amendment shall be 25 feet or any setback as set forth in any deed restriction or as set forth in any plat provided, however, that the setback must prevent erosion, trap sediments in runoff and filter out nutrients.”

Aquifer Protection Element, correction to the spelling of “Aquifer” on all titles on the pages.

Mayor Whitt stated Councilman Dillon wanted, and we had concensus from Council, a caveat that we would continue amending this with the new Planner. Councilman Dillon also asked that Council permit the Planning Commission to begin looking at the Future Land Use Element so that they have some sense of what to show the Planner.

Mayor Whitt asked for motion to read by title only Ordinance #ORD2015-10.

Councilwoman Fleeger moved Ordinance #ORD2015-10 be read by title only. Councilman Dillon seconded the motion. The vote was taken and all were in favor. The vote was 5-0.

Mrs. Bowne read the following into the record:

“ORDINANCE #ORD2015-10

AN ORDINANCE OF THE CITY OF DUNNELTON, MARION COUNTY, FLORIDA, PROVIDING FOR A LARGE-SCALE AMENDMENT TO THE COMPREHENSIVE PLAN; AMENDING THE FUTURE LAND USE ELEMENT, CONSERVATION ELEMENT, PUBLIC FACILITIES ELEMENT, AND AQUIFER PROTECTION ELEMENT; UPDATING SUCH ELEMENTS TO BE CONSISTENT WITH STATE STATUTES; ELIMINATING OBSOLETE PROVISIONS; RE-WORDING OBJECTIVES AND POLICIES FOR CLARIFICATION PURPOSES;

CREATING A SITE-SPECIFIC TEXT AMENDMENT TO ALLOW MEDIUM DENSITY RESIDENTIAL DEVELOPMENT ON CERTAIN UPLAND LOTS DESIGNATED AS CONSERVATION IN THE 2008 PLAN AMENDMENTS; AMENDING POLICIES REGARDING NONCONFORMING STRUCTURES, STRUCTURES DEVOTED TO NONCONFORMING USES, AND SUBSTANDARD SIZED LOTS; PROVIDING FOR CONFLICTS; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.”

Mayor Whitt stated the motion would be: “move Ordinance #ORD2015-10 be approved with a caveat that Council would like the Planning Commission to continue pursuing changes, and we will make those subsequent changes, scribbler’s error on the Aquifer Protection Element, striking the “a” in headings; Future Land Use Policy 1.4.E. 1-3, Page 4, striking 1-3; Future Land Use Element, Policy 1.6.C & D, Page 6, adding commas, Future Land Use, Policy 4.1.B.1, Page 12, adding language read into the record by Attorney Cassady, Conservation Element, Policy 9.1.A.1, Page 11, adding the language Attorney Cassady read into the record.” *Please refer to Page 8, Paragraph 3 of these minutes.*

Councilman Dillon moved Ordinance #ORD2015-10 be approved with the proposed changes. Vice-Mayor Evans seconded the motion.

Mayor Whitt called for further discussion.

Councilman Green stated it’s been urged by some of our speakers here tonight to have additional meetings on this issue to be sure that we completely understand exactly what we are doing before this is sent. He said he would like to hear if his fellow Council members feel it is necessary. He stated if they do, we should try and schedule a special meeting.

Council and staff engaged in brief discussion regarding moving forward.

Mayor Whitt asked for a roll call vote. All Council members responded with a positive vote in favor of the motion. The vote was 5-0.

12. COUNCIL LIAISON REPORTS AND COMMENTS

Councilwoman Fleeger discussed a houseguest and the use of a “critter cam” in the Rainbow River.

Kathryn Taubert, 19436 SW 101st Place Rd., commented on the developer of the “critter cam.”

13. CITY MANAGER’S REPORT

- Reviewed City Manger’s goals.
- Recommended interviewing attorneys for the position at the next workshop.

14. CITY ATTORNEY’S REPORT

Possible Causes of Action Against Former City Manager

Attorney Cassady stated she had a colleague and Attorney Hand review the material that was given to her for consideration of a proposed lawsuit. She said they together concluded that it would be risky to move forward.

Rainbow River Ranch Status Report

Attorney Cassady stated she was waiting for the "Reply Brief" and would forward to Council when received.

15. ADJOURN

At approximately 10:02 p.m. Councilman Dillon moved the November 9, 2015 City Council meeting be adjourned. Councilman Green seconded. All members voted in favor. The motion passed 4-0.

Attest:

Dawn Bowne, MMC
City Clerk

Nathan Whitt, Mayor