

Dunnellon Special City Council Meeting Minutes
December 08, 2015
6:00 p.m.

Call to Order – Mayor Whitt at 6:03 p.m.

Pledge of Allegiance – Led by Mayor Whitt

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

Roll Call

Council	Staff
Mayor Whitt	Eddie Esch, City Manager
Vice Mayor Evans	Mandy Roberts, Assistant City Clerk
Councilwoman Fleeger	Troy Slattery, Interim Fire Chief
Councilman Dillon	Virginia Cassady, City Attorney
Councilman Green	Lynn Wyland, Staff Assistant

Proof of Publication – The Agenda was posted on the City's website and City Hall bulletin board on Friday, December 7, 2015.

Chairman's Comments Regarding Agenda

Councilman Green requested Public Comments be moved to the end of the agenda item.

1. THE INCIDENT THAT OCCURRED DECEMBER 4, 2015 AT THE CHRISTMAS TREE LIGHTING CEREMONY AT CITY HALL BETWEEN MS. PENNY FLEEGER, COUNCILWOMAN AND CITY CLERK MRS. DAWN BOWNE – COUNCILMAN GREEN

Mayor Whitt explained he was disappointed in Councilwoman Fleeger's behavior at the event on Friday night and regretted he had to miss an important meeting of the Rainbow Springs Aquatic Preserve Advisory Committee, on which he is honored to serve, and instead attend this special meeting. Mayor Whitt explained there is a certain level of decorum that is expected and must be maintained by council members in a public forum. He stated it will be up to Councilwoman Fleeger as to how she chooses to rectify this situation.

Councilman Dillon asked the audience members to refrain from clapping, commenting or booing during the meeting and refrain from any character assassinations.

Councilman Green explained he requested this special meeting to allow those involved the opportunity to address the Council and the public, to quell any rumors or misconceptions. He stated that he has had no contact with either Mrs. Bowne or Councilwoman Fleeger since the incident occurred. Councilman Green asked Mrs. Bowne if she would like to address the Council.

Mrs. Bowne read the following written statement:

I want the Council to know that it was not my intention to publicize this incident or bring any negative attention to the Council or this community. I have not played any part in doing so. I did not request this meeting and I have not responded to any requests for comment from the press. However, I have come to realize that it is necessary the Council hear from me the events of Friday night and probably the only way that Councilwoman Fleeger may be held accountable for her actions. As Personnel Director, I would usually be the one to administer such complaints or incidents on behalf of the employees and make sure they are protected from a threatening, abusive or a hostile work environment. However, that does not mean I deserve any less protection because this involved an elected official. My goal here tonight and my only goal, is to make sure there is a clear message delivered that no employee in this City can be treated in the manner I was subjected to even by a Councilmember.

It is important the City Council understand that the program format for the Friday night Light Up event was no different than the previous year other than the amount of entertainment. You have been provided a copy from both years. Actually, it was not even created by me, but created by one of my staff members using last year as a template. I was never informed of any problems or issues with last year's program, so upon my review of the program and it being finalized, no real formatting changes were made. Our goal is to always highlight our elected officials during the program and keep them interactive through the event, all while trying to keep the program as short as possible because the young children are waiting patiently to see Santa. I emailed the agenda to those Councilmembers that agreed to have speaking parts earlier in the day. Prior to the event beginning, I reviewed the program again with our Mayor in the presence of our City Manager. I specifically took time and pointed out that during the introduction of dignitaries would be the appropriate time for our City Manager to speak if he so desired. I left that between the two of them. I was told by the Mayor that Eddie stated he would not be speaking.

The event continued as planned and was going well. As I was in my normal position I stay for most of the night to work the event and keep the program on schedule I heard my name called. I turned to see that our City Manager's wife was trying to get my attention from a short distance away. I stepped away from the podium area and a little closer to hear her ask me and I quote "When is Eddie going to speak at this event, did I miss it?" I replied that she should speak with Eddie. He was to let the Mayor know if he wanted to speak. A little bit later, Councilwoman Fleeger walks directly up to me in the area of the podium or off to the side where I was standing waiting to progress to the next part of the program. From the tone of voice, and her expression I could tell she was not happy about something. She proceeded to speak to me about Mr. Esch addressing the public. By this time, it was obvious to me there was an issue here...and I replied to Councilwoman Fleeger to please let Eddie know if he wants to speak to just advise me and I will see that it happens. At this point she grabbed my arm and pulled me closer to her said "Look, don't mess with me. I am a Councilmember and I am giving you an order to stop what you are doing and go find Eddie right now and make him speak whether he wants to or not." I immediately pull away and tried to backup and replied to her that I would not do that because I was trying to keep the program going and on task. At that point, she walks in closer toward me and very quickly slaps my cheek three times (It was not touch or stroke as I have read in the paper) as if to get my attention and discipline me in some way because I was not complying with her demands. Simultaneously with the slaps began she said something hurtful that was completely personal and not related in any way to our work environment.

I was completely taken off guard and somewhat dumbfounded by her actions as I would have never expected to be manhandled by a Councilmember. It became very apparent to several staff around me that I was extremely upset as we were all waiting for the call that Santa was ready. At this point I recall Councilman Green taking over the program because he was to introduce the pastor to say the benediction anyway and Lt. Slattery told me not to worry he would finish seeing that Santa was presented to the kids according to the program.

At this point, I went and located Mr. Esch and asked to speak with him. I asked him what in the world was going on and what did he say to both his wife and Councilwoman Fleegeer to cause such a reaction. He stated to me that he had told them that he was not on the program to speak. I reminded him of our conversation with the Mayor before the event ever started. I also reported to him the attack on me by Councilwoman Fleegeer. He replied, "Well, she should not have done that, but you know how she is."

Already being upset, this reply absolutely infuriated me. I would expect the titular head of this City to take something like this much more seriously. It became clear to me that a lack of clear and correct communication on the issue perhaps contributed to the escalation of this incident. Additionally, prior to leaving the event both my husband I discussed the incident in detail with the Mayor.

I would like to direct the Council's attention to pages 11 & 19 of the City Council Code of Conduct required by Ordinance #2005-11 and the latest version adopted via Resolution #RES2013-15.

It is ironic that under Article IV Council Conduct with City Staff we introduce this section with a quote by Robert Schuller that says, "Never let a problem become an excuse" because I really don't accept the excuse "You know how Penny is" for this incident.

Every Councilmember is asked to sign this document during their orientation after the election and affirm that they have read and understand it. They were asked to sign it again after its amendment in 2013. Read into the record: Section IV Treat all staff as professionals..... All highlighted areas...

I would like to also direct the Council's attention to pages 4 & 9 of the City's Public Code of Ethical Conduct also required by Ordinance #2005-11 and adopted via Resolution #RES2013-17. The same orientation process is administered as with the Code of Conduct. Read into the record highlighted areas....

In closing, I would like to say that I did receive a voicemail (Which I have here) from Councilwoman Fleegeer asking for me to call her so that she could apologize. I really felt it not in our best interest at this point in time to have any communication absent a third party until a resolution has been reached. I do appreciate your efforts Mrs. Fleegeer. However, I do feel that more of a resolution is required than an apology. I want to make sure that there is a clear message that no employee should ever be subject to this kind of treatment by any manager or elected official of this City no matter how annoyed someone might be. Our policies provide for a very clear and professional way for all concerns or matters to be handled.

As indicated in her written statement, Mrs. Bowne read aloud several sections of the City Council Code of Conduct and Code of Ethics.

Councilwoman Fleegeer apologized for making a personal, familial statement to Mrs. Bowne. She stated at the time, she was very perturbed because Mr. Esch was behind the scenes, and not involved or participating in the event. She told Mrs. Bowne that she does not recall

slapping her, and explained a gesture that she used, describing it as touching a child's face when you are talking to them. She stated that she asked Mrs. Bowne to include Mr. Esch in her thanks, and Mrs. Bowne replied, "Why should I." Mrs. Bowne stated her response to Councilwoman Fleeger was exactly what she provided in her statement.

Attorney Cassady pointed out, according to Parliamentary Procedure, any person at the podium shall address the Mayor and avoid dialogue with council members or the public.

Councilwoman Fleeger stated she was not feeling well at the event, that her knees were bothering her, and she honestly did not realize that Mrs. Bowne was even upset.

Mrs. Bowne approached the podium and explained there was no way that Councilwoman Fleeger did not realize how upset she was; upset to the extent that she provided the City Manager with her verbal resignation, then approached Councilwoman Fleeger and advised her of the same. She stated Councilwoman Fleeger's response was "That's good," and something to the effect of "That's what was needed."

Mayor Whitt stated he spoke with Mrs. Bowne after the incident on Friday evening, and recalls Mrs. Bowne's explanation being consistent with that conversation. He asked Councilwoman Fleeger if she had anything further. She said she did not.

Councilman Green asked Mandy Roberts, Assistant City Clerk, to provide her accounting of the incident.

Ms. Roberts explained she did not see what happened, but was soon afterward approached by another city staff member who was visibly upset, stating that Councilwoman Fleeger came over to her at the event and was somewhat boastful about slapping Mrs. Bowne.

Councilwoman Fleeger stated, "I didn't slap her, I'm sorry, I didn't slap you."

Councilman Dillon stated he did not want to involve other staff members. He explained he knows what he would do in this situation, and hopefully Councilwoman Fleeger does as well. Mayor Whitt agreed, and reiterated that Mrs. Bowne's statement is consistent with what was explained to him on the evening of the incident. He stated Councilwoman Fleeger's actions were completely inexcusable.

Vice-Mayor Evans explained that individual council members shall not direct staff to do anything. He stated furthermore, if she chose to do so, Mrs. Bowne could file third degree assault and battery charges against Councilwoman Fleeger, which could result in a 30-day jail sentence if found guilty. Councilman Evans stated that the Council could choose to censure Councilwoman Fleeger, which would carry no penalty, with the exception of embarrassment. He stated Council could not vote her out of office, but she could be removed by a recall election, or she could resign.

Mr. Esch stated he would like to correct parts of Mrs. Bowne's statement. He explained that Mrs. Bowne approached him after the incident and told him that Councilwoman Fleeger had insulted her and her family. When he asked her what it was about, she told him it was because he wasn't on the program agenda. She then said something about giving her resignation and walked away. He said he was not given the opportunity to resolve the situation. He said when he approached Councilwoman Fleeger she accounted the incident but did not say anything about touching Mrs. Bowne. Mr. Esch stated he is somewhat appalled that he is being accused of not doing anything more when he was not aware of the facts.

Mayor Whitt stated for the record, Mrs. Bowne provided him with a list of names prior to the program and Mr. Esch was on the list. He said when asked if he wanted to speak, Mr. Esch declined. However, he was introduced along with other city representatives.

Mr. Esch explained he declined to speak because it would have put him on the spot, being moments before the program began. He said to be very honest, he was a little "set back" that he wasn't approached or asked to be on the agenda. However, he said that he in no way, shape or form, encouraged or promoted the actions of anyone toward Mrs. Bowne.

Mayor Whitt noted again for the record, that Mr. Esch was asked to speak and declined. He went on to explain his love for the event and thanked all of the sponsors and participants. He stated he felt this meeting was not necessary, and the incident should have been handled privately.

Mrs. Bowne approached the podium and stated she does not wish to debate the issue any further, but she would not leave with the impression that she provided a false statement about her conversation with Mr. Esch. She explained that she asked Mr. Esch what he had said to "them" and he replied that he wasn't on the agenda. After a few moments of debate with Mr. Esch over what was said, or not, Mrs. Bowne asked the Council to be assured that she made no false statements.

Councilwoman Fleeger offered an apology and stated she tried to contact Mrs. Bowne by phone and in person.

Councilman Green stated when Mrs. Bowne approached him, she was so upset and crying that she could not continue running the program. He explained he tried to console her and stepped in and finished running the program for her. He stated, in his lifetime, he has never seen anyone so upset. He said when she told him she had given Mr. Esch her resignation, he told her that she would not resign; that this City needs her.

Vice-Mayor Evans stated after hearing the testimony, there are clear violations. First, councilmembers cannot direct staff as individuals. Second, to be charged with third degree assault and battery, all one must be guilty of is touching someone. He reiterated that the Council has the option to censure Councilwoman Fleeger.

PUBLIC COMMENTS

Comments were received by the following:

- Joan Duggins, 19687 SW 88th Loop, Rainbow Springs
- Linda Fernandez, 12499 N. Water Way
- Beverly Kelley, 16094 SW 44th Street
- Kim Kirkwood, 20875 W. Pennsylvania Ave.
- Valerie Hanchar, 11575 Vogt Springs Rd.
- Former Mayor John Taylor, 11753
- Dwight Porter SE 189th Terrace
- Mary Ann Hilton, 12078 Palmetto Ct., Blue Cove
- Virginia Saalman, 11540 Camp Drive, Blue Cove
- Christine Avina, Client Coordinator, Annie Johnson Senior Services Center
- Pastor Tom Welch, PO Box 143, Dunnellon

Councilwoman Fleeger stated she has never worked the way most others have. She said, with regard to touching someone, “I’m a southerner.” She said this is something that she doesn’t understand.

Councilman Dillon stated if he had acted the way that Councilwoman Fleeger acted, he would not be sitting on Council; he would resign. He then made motion that Council ask Councilwoman Fleeger to resign. Councilman Green seconded the motion. Mayor Whitt called for discussion.

Councilman Dillon stated this is not the first time Councilwoman Fleeger has behaved inappropriately. He said she has exhibited inappropriate behavior toward the public during meetings. He said it is not a “southern thing”; it is a pattern of inappropriate behavior.

Councilman Green agreed with Councilman Dillon’s comments and stated he feels that Councilwoman Fleeger’s actions warrant her resignation.

After brief Council discussion regarding the motion versus the option to censure Councilwoman Fleeger, the vote was taken. The motion failed with a 2-2 vote, Mayor Whitt and Vice-Mayor Evans opposing. Councilwoman Fleeger abstained from voting.

Vice-Mayor Evans made motion to censure Councilwoman Fleeger via proclamation for her behavior at the tree lighting ceremony. Councilman Dillon seconded the motion. The vote was taken and all were in favor. The motion passed 4-0. Councilwoman Fleeger abstained from voting.

Councilwoman Fleeger’s completed and signed *Form 8B Memorandum of Voting conflict for County, Municipal, and Other Local Public Officers*:

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS	
LAST NAME—FIRST NAME—MIDDLE NAME <i>FLEEGER Perelope Lee</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>City Council, Dunnellon</i>
MAILING ADDRESS <i>11735 E. BLUE LOVE DRIVE Dunnellon</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY <i>Dunnellon</i>	COUNTY <i>Marion</i>
DATE ON WHICH VOTE OCCURRED <i>Dec. 8, 2015; Dec. 14, 2015</i>	NAME OF POLITICAL SUBDIVISION: <i>Dunnellon</i>
	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

RECEIVED
 DEC 14 2015
 City of Dunnellon

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Penelope L. Fleeger, hereby disclose that on Dec. 8 and Dec. 14, 20 15:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Proposed proclamation for my censuresship since I receive a stipend as an elected official.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

12-14-15
Date Filed

Penelope L. Fleeger
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

2. ADJOURN

At approximately 7:25 p.m. Councilman Green moved the December 8, 2015 City Council meeting be adjourned. Councilman Dillon seconded. All members voted in favor. The motion passed 5-0.

Attest:

Mandy Roberts,
Assistant City Clerk

Nathan Whitt, Mayor