

# MASTER

## CITY OF DUNNELLON CITY COUNCIL MEETING

DATE: June 13, 2016

TIME: 5:30 p.m.

PLACE: City Hall

20750 River Dr., Dunnellon, FL34431

### **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Whitt called the meeting to order at approximately 5:30 p.m. and led the Council in the Pledge of Allegiance. Mayor Whitt asked if a citizen would volunteer to open with prayer. Pastor Nellie Johnson provided the invocation.

### **ROLL CALL**

The following members answered present at roll call:

Nathan Whitt, Mayor, Seat 1

Larry Winkler, Councilman, Seat 2

Chuck Dillon, Councilman, Seat 3

Walter Green, Vice-Mayor, Seat 4

Richard Hancock, Councilman, Seat 5

### **STAFF PRESENT**

Eddie Esch, City Manager

Dawn Bowne, City Clerk

Jan Smith, Finance Officer

Mike McQuaig, Police Chief

Lt. Troy Slattery, Interim Fire Chief

Mandy Roberts, Clerk Assistant

### **LEGAL COUNSEL**

Andrew Hand

Shepard, Smith & Cassady

### **PROOF OF PUBLICATION**

Mrs. Bowne announced for the record the agenda for this meeting was posted on the City's website and City Hall bulletin board on Friday, June 10, 2016.

### **Mayor Whitt's comments**

Mayor Whitt reminded everyone that Agenda Item #10 will require a quasi-judicial hearing and second and final reading.

### **PUBLIC COMMENTS**

Joan Duggins, 19687 SW 88<sup>th</sup> Loop, asked the Council to vote "no" on Agenda Item #4.

Mary Ann Hilton, 12078 Palmetto Court, commented on the following:

Agenda Item #6: She stated there is no transportation element in the Comp Plan and she doesn't feel this has been thoroughly reviewed by Council and the public.

Agenda Item #7: She stated she understood that the 125 Anniversary Park would not be funded by the City. She said CRA money is still City money.

Agenda Item #11: She made recommendations regarding the Charter positions and providing for stipulations regarding behavior and performance.

Mr. Art Fisher, Dunnellon resident, discussed the performance review process, specific to the City Manager position. He suggested the purpose is to periodically review goals, tasks and objectives. He stated he feels the current process is non-productive.

Ms. Pam Macintyre, 11809 Camp Drive, referred to Roberts Rules of Order, maintaining a professional decorum and stated the Mayor is responsible for maintaining order.

Ms. Penny Fleeger, 11735 E. Blue Cove Drive, stated the majority of Council's concerns are a result of past City Managers and are unrelated to the current City Manager.

Ms. Johanna Soldato, 20202 Quail Run Drive, expressed concern with eliminating the position of City Manager.

### **CONSENT AGENDA**

1. City Council Workshop Minutes
  - April 27, 2016 Special Workshop
  - May 03, 2016 Special Workshop
  - May 04, 2016 Workshop
  - May 11, 2016 Special Workshop
2. City Council Minutes
  - April 20, 2016 Special Council Meeting
  - May 09, 2016 Council Meeting
3. Approve Purchase Requests 2016085-2016086 for Flatbed Utility Trailer
4. Authorize Mayor to sign GWP Choice Hotel Water Main Extension, Agreement #AGR2016-12, Change Order #3 in the Amount of \$18,279.60
5. Award RFP #BID2016-06 to Florida Municipal Services and Authorize Mayor to Sign Agreement #AGR2016-21
6. Authorize Mayor to Sign TPO Interlocal Agreement #AGR2016-29
7. Authorize Mayor to Sign Fox Chapel Iron Works Agreement #AGR2016-30

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

Councilman Winkler made a motion to place Agenda Item #15 on the consent agenda. Vice-Mayor Green seconded the motion. The vote was taken and all were in favor. The motion passed 4-0. Councilman Dillon abstained from voting.

Vice-Mayor Green moved the consent agenda be approved as amended. Councilman Winkler seconded the motion. The vote was taken and all were in favor. The vote was 4-0. Councilman Dillon abstained from voting.

Councilman Dillon completed and signed the following *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>DUNNELLON, III CHARLES JOSEPH</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>City Council Seat 3</i>
MAILING ADDRESS <i>PO Box 1937</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, FL</i>	NAME OF POLITICAL SUBDIVISION <i>City of Dunnellon</i>
COUNTY <i>MARION</i>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTEE
DATE ON WHICH VOTE OCCURRED <i>6/13/16</i>	

**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 equally 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 the reverse side 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 inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate 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 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 otherwise may participate 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 other side)

**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, Charles J. Diller III, hereby disclose that on 6/13, 20 16.

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

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 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:

*Agenda Items # 15 + Consent Agenda  
 (#15 moved to Consent Agenda)  
 City Lien on 20717 Walnut Street.  
 This inures to my financial gain  
 as I am negotiating purchase  
 of the subject property.*

Date Filed 6/13/16 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.**

**REGULAR AGENDA**

**AGENDA ITEM NO. 8 – INTRODUCTION OF NEW OFFICER, ELDON RAINES**

Chief McQuaig introduced the newest member of the police force, Officer Eldon Raines.

**AGENDA ITEM NO. 9 – CITY OF DUNNELLON FAIR HOUSING WORKSHOP**

Mr. Fred Fox, Fred Fox Enterprises, conducted a Fair Housing Workshop as required by CDBG Grant Agreement #AGR2014-36 and DEO Contract # 15DB-OJ-05-52-02-E02. Mr. Fox provided a handout and a sign-in sheet to the audience. Mr. Fox's handout is attached hereto and made a part of these minutes.

**AGENDA ITEM NO. 10 – FIRST READING ORDINANCE #ORD2016-05, REZONING #REZ2016-01, 20831 POWELL ROAD**

Councilman Dillon moved Ordinance #ORD2016-05 be read by title only. Councilman Winkler seconded the motion. The vote was taken and all were in favor. The vote was 5-0.

Mrs. Bowne read the following:

“ORDINANCE #ORD2016-05

AN ORDINANCE OF THE CITY OF DUNNELLON, FLORIDA; CHANGING THE ZONING CLASSIFICATION FROM RESIDENTIAL MEDIUM DENSITY (R-3A) TO PUBLIC (P) OF PARCEL 3350-050-000 (LOTS 50, 51, 59, 60) COMPRISING 3.77 ACRES AND PARCEL 3350-081-000 (LOT 1911 AND N 125 FEET OF LOT 81) COMPRISING .79 ACRES LOCATED AT THE NORTHWEST AND SOUTHWEST CORNERS OF THE POWELL ROAD AND CEDAR STREET INTERSECTION; PROVIDING DIRECTIONS TO THE CITY MANAGER; PROVIDING FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.”

Councilman Dillon moved Ordinance #ORD2016-05 be approved. Councilman Hancock seconded the motion.

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

**AGENDA ITEM NO. 11 – FIRST READING ORDINANCE #ORD2016-06, CHARTER REFERENDUM**

Councilman Winkler moved Ordinance #ORD2016-06 be read by title only. Councilman Dillon seconded the motion. The motion passed 4-1. Mayor Whitt voted no.

Mrs. Bowne read the following:

“ORDINANCE #ORD2016-06

AN ORDINANCE OF THE CITY OF DUNNELLO, FLORIDA, SUBMITTING TO THE ELECTORS OF DUNNELLO A PROPOSED AMENDMENT TO SECTIONS 18A, 19, 21, 22 AND 25 OF THE CITY CHARTER ELIMINATING THE CITY MANAGER POSITION; PROVIDING FOR CITY COUNCIL MANAGEMENT OF CITY DEPARTMENT HEADS OR MANAGEMENT OF SAME BY CITY COUNCIL’S DESIGNEE(S); PROVIDING THE BALLOT TITLE, SUMMARY, AND TEXT FOR THE PROPOSED AMENDMENT; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR THE EFFECTIVE DATE OF THE CHARTER AMENDMENT IF APPROVED BY A MAJORITY OF ELECTORS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND EFFECTIVE DATE FOR THIS ORDINANCE.”

Councilman Dillon moved Ordinance #ORD2016-06 be approved. Councilman Winkler seconded the motion.

Mayor Whitt stated he strongly opposes. There was no further discussion.

The vote was taken and Mayor Whitt opposed. The motion passed 4-1.

**AGENDA ITEM NO. 12 – FIRST READING ORDINANCE #ORD2016-07, PARKING TICKET AMENDMENTS**

Councilman Dillon moved Ordinance #ORD2016-07 be read by title only. Councilman Hancock seconded the motion. The vote was taken and all were in favor. The vote was 5-0.

Mrs. Bowne read the following:

“ORDINANCE #ORD2016-07

AN ORDINANCE OF THE CITY OF DUNNELLO, FLORIDA, UPDATING PROCEDURES FOR ISSUANCE OF PARKING TICKETS; ADOPTING REQUIREMENTS FOR CONTENTS OF PARKING TICKETS; ESTABLISHING PROCEDURES TO REFER VIOLATIONS TO THE COUNTY COURT SYSTEM; PROVIDING FOR SEVERABILITY AND CODIFICATION, PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.”

Councilman Dillon moved Ordinance #ORD2016-07 be approved. Councilman Hancock 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.

**AGENDA ITEM NO. 13 – FIRST READING ORDINANCE #ORD2016-08,  
BOATING TICKET AMENDMENTS**

Councilman Dillon moved Ordinance #ORD2016-08 be read by title only. Councilman Winkler seconded the motion. The vote was taken and all were in favor. The vote was 5-0.

Mrs. Bowne read the following:

**“ORDINANCE #ORD2016-08**

AN ORDINANCE OF THE CITY OF DUNNELON, FLORIDA, UPDATING PROCEDURES FOR ISSUANCE OF CIVIL MUNICIPAL CODE VIOLATION TICKETS FOR BOATING; ADOPTING REQUIREMENTS FOR CONTENTS OF MUNICIPAL CODE VIOLATION TICKETS FOR VIOLATIONS OF THIS CHAPTER; ESTABLISHING PROCEDURES TO REFER VIOLATIONS TO THE COUNTY COURT SYSTEM; PROVIDING FOR SEVERABILITY AND CODIFICATION; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.”

Councilman Dillon moved Ordinance #ORD2016-08 be approved. Councilman Winkler 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.

**AGENDA ITEM NO. 14 – BB&T REFINANCE REQUEST LETTER**

Councilman Dillon made a motion to authorize Mayor Whitt to sign the BB&T Refinance Letter as presented at the June 9<sup>th</sup> workshop. Councilman Hancock seconded the motion.

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

**AGENDA ITEM NO. 15 – CITY LIEN ON 20717 WALNUT STREET**

This item was approved on the consent agenda.

**AGENDA ITEM NO. 16 – UPDATE ON EDUCATION AND QUESTION MATERIAL FOR TAX PAYER SURVEY AND MEETING WITH MARION COUNTY**

Mr. Esch reported on a meeting with the Marion County Property Appraiser and Tax Collector. He stated there was much discussion regarding the necessary steps to implement a fire assessment. He said it was a very productive meeting and more information is forthcoming. Mr. Esch said Councilman Hancock attended the meeting as the council liaison.

Councilman Hancock stated the Marion County staff was extremely helpful. He said, however, the City should have started the process sooner. He explained as a result, the City would not be able to implement a fire assessment in the 2017 budget year. Councilman Hancock stated the City must adhere to stringent timelines in order to implement the fire assessment in the 2018 budget year.

Councilman Dillon asked if another assessment study would be necessary. Councilman Hancock stated yes; in order to calculate a formula. He explained the City cannot use the County's formula. Mr. Esch stated this is because the County offers a different level of service. He said the formula must be "needs based." Mrs. Bowne added that an independent study would be necessary to defend the assessment in the event of a class action lawsuit.

Mrs. Bowne reviewed the necessary timeline and required action if the Council chooses to move forward with implementing the assessment.

After much discussion among Council and staff regarding the calculation of the formula and required action, Council agreed to further educate themselves, and take the necessary steps to move forward.

Mayor Whitt thanked Councilman Hancock and the City staff for working with the County on this project.

**AGENDA ITEM NO. 17 – APPROVE EVALUATION OF CITY MANAGER**

Councilman Dillon made a motion to approve the City Manager Evaluation. Councilman Winkler seconded the motion.

Mayor Whitt asked if Councilman Winkler's evaluation was calculated into the totals. Mrs. Bowne replied yes; but, only in the categories that he evaluated. She explained if no rating was offered in a category by Councilman Winkler, the result was based on the other four evaluations only.

Mr. Esch offered an apology for the presentation at the previous workshop. He suggested the Council table the motion to approve the evaluation, and allow him to meet with each of them individually to discuss issues of concern presented in the evaluation.

Councilman Hancock asked if this evaluation process/format has been used in the past. Mrs. Bowne confirmed it was used for Mr. Esch's previous evaluation and has been used with past city managers.

Mayor Whitt supported Mr. Esch's proposal and mentioned the positive comments received from the public. He stated he is pleased with Mr. Esch's performance.

Mayor Whitt called for a vote. The motion passed 4-1 Mayor Whitt opposed.

**AGENDA ITEM NO. 18 – COUNCIL LIAISON REPORTS AND COMMENTS**

Vice-Mayor Green made a motion to terminate the City Manager based on the evaluation that was approved. Councilman Dillon seconded the motion for the purpose of discussion.

Councilman Dillon elaborated on the declining relationship between the Council and City Manager and his actions during the previous workshop. As a result, he stated he does not foresee the Council having a good working relationship with Mr. Esch.

Councilman Hancock referred to his suggestions in Mr. Esch's evaluation. He stated Mr. Esch had two weeks to address concerns with his evaluation and convince Council that he is ready, willing and able to accomplish all personal aspects and professional results he needs to achieve in order to move the City forward. Councilman Hancock said he has seen no such effort. He explained if Mr. Esch had made this attempt, perhaps probation would have been appropriate. He referred to the occurrence at the previous workshop and the Thursday newspaper article. Councilman Hancock stated it is obvious there is no trust on either side of the table. He expressed his displeasure with Mayor Whitt's article, which he felt degraded the other council members and violated the Council Code of Conduct. As a result, Councilman Hancock stated he does not believe that the Council can continue to operate effectively with the current City Manager, with no level of trust.

Mayor Whitt expressed his support for Mr. Esch and challenged the accuracy of the evaluations. He said Mr. Esch should be commended for his efforts, and this is a sad situation. He stated he felt something is going on "behind the scenes."

Vice-Mayor Green said he does not appreciate Mayor Whitt making allegations without supporting evidence. He asked Mayor Whitt to withdraw his comment if he could not provide proof. Mayor Whitt stated it would be difficult to prove. However, he said he felt strongly this is the case, and recommended tabling the issue pending a full investigation.

Ms. Johanna Soldato and Ms. Joan Duggins expressed their displeasure with how this situation has been handled.

Mayor Whitt stated there is a motion on the floor, and called for a vote. The motion passed 4-1. Mayor Whitt opposed.

Councilman Dillon addressed the accusation that Councilman Winkler had been sited with a Sunshine Law Violation. He explained when sitting on a previous Council, the City Attorney called for an executive session regarding a lawsuit. He stated because Councilman Winkler, who was the Mayor at that time, did not state the name of two labor attorneys who accompanied the City Attorney, a violation of the Sunshine Law occurred. Councilman Dillon explained that the "City" was cited, not Councilman (then Mayor) Winkler, and the case is cited in the *Guide to the Sunshine Amendment and Code of Ethics*. Councilman Dillon said he knows of no other person who he trusts and admires as much as Councilman Winkler, and would never question his ethics. He stated the accusation in the newspaper was erroneous.

Councilman Winkler thanked Councilman Dillon for the clarification.

Councilman Hancock asked Council to authorize him to meet with staff to discuss plans to proceed going forward. He suggested Vice-Mayor Green and Mrs. Bowne meet with the departments to discuss operations in the absence of a City Manager.

Vice-Mayor Green suggested having a special public workshop to meet with the supervisors and department heads.

Councilman Dillon suggested giving staff time to adjust and report back to Council. He agreed with Councilman Hancock's recommendation.

Council agreed to authorize Vice-Mayor Green to participate in staff meetings with Mrs. Bowne to inform the employees of the change, and offer Council's full support.

Attorney Hand pointed out to Council that the City Manager position is mandated by the City Charter.

#### **AGENDA ITEM NO. 19 – CITY MANAGER'S REPORT**

Mr. Esch said it has been an honor to serve the City for the past six years. He said tough times have gotten much worse. He said Dunnellon deserves good leadership and hopes it will be provided. He said he is willing to help if needed, and he understands Council's decision, although he doesn't agree it is fair.

#### **AGENDA ITEM NO. 20 – CITY ATTORNEY'S REPORT**

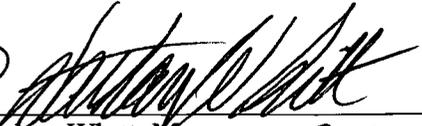
Attorney Hand stated the motion to terminate the City Manager needs to be specific in order to determine whether severance is payable per the employment contract.

Vice-Mayor Green made a motion to terminate without cause. Councilman Dillon seconded. The motion passed 4-1. Mayor Whitt opposed.

**AGENDA ITEM NO. 21 – ADJOURNMENT**

At approximately 7:25 p.m. Councilman Dillon moved the June 13, 2016 City Council meeting be adjourned. Councilman Winkler seconded. All members voted in favor. The motion passed 5-0.

Attest:   
Dawn Bowne, MMC  
City Clerk 8-8-16

  
Nathan Whitt, Mayor 8-8-16