

ORDINANCE #ORD2016-11

AN ORDINANCE OF THE CITY OF DUNNELLON, FLORIDA, AMENDING SECTION 70-31 OF THE CODE OF ORDINANCES TO BE CONSISTENT WITH STATE LAW REGARDING NOTIFICATION OF OWNERS WHEN ONSITE SEPTIC SYSTEMS ARE TO BE CONVERTED TO THE CITY'S CENTRAL SEWER SYSTEM; AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES TO AUTHORIZE THE IMPOSITION OF A SEWER FACILITY CAPITAL CHARGE ON RIO VISTA UTILITY FACILITIES CUSTOMERS OR PROPERTY OWNERS PURSUANT TO THE UTILITY PURCHASE AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION AND AN EFFECTIVE DATE.

LEGISLATIVE FINDINGS

1. In 2011, the City of Dunnellon acquired the Rio Vista Utility Facilities, a privately owned water and wastewater system located outside the City's boundaries and within the City's 180 Utility Service District. The Sewer Facility had previously operated under a Florida Department of Environmental Protection ("FDEP") permit which expired, and the then-owner could not obtain a subsequent permit due to deficiencies in the Facility. FDEP gave assurances to the then-owner that, if the City of Dunnellon acquired ownership of the Facility, FDEP would dismiss its pending case against the owner.

2. Pursuant to a Utility Purchase Agreement dated August 22, 2011, the City acquired the Rio Vista Sewer and Water Assets in their "as is" condition and assumed all responsibility and liability for all Assets and for the operation and maintenance of the Facilities. Per the Agreement, the City pursued grants for design, construction, and permitting to connect the Rio Vista Sewer Facilities to the City's central sewer system. To reduce connection costs due from Rio Vista sewer customers, the City was awarded grant monies.

3. Paragraph 10 of the Utility Purchase Agreement contemplates that present and future owners of properties connected to the Rio Vista Sewer Facility would be billed a capital charge of approximately \$20 to \$40 per month, and such capital charge would be added to their monthly sewer bill until the sewer connection costs are paid in full (in approximately fifteen to twenty years). The capital charge reflects the costs which the City incurred to connect the Rio Vista Sewer Facility to the City's central sewer system after applying for grants. The capital service charge is in addition to any other utility charges which the City imposes upon its water and wastewater service customers per the City's Code.

4. Under paragraph 6 of the Agreement, the City is not to charge present or future Rio Vista sewer customers more than 31.1% of the connection costs, even if the City is unable to obtain grants. The City has incurred \$381,569.02 in costs and legal fees associated with connecting the Rio Vista Sewer Facility to the City's central sewer system, which costs and fees have not been

reimbursed by grant funds. Such costs and fees comprise 29.45% of the connection costs (less than the required 31.1% of the connection costs), with the remaining costs being paid through grant funds. The City therefore shall bill Rio Vista sewer customers between \$20 - \$40 monthly for a period of approximately twenty years until the connection costs are paid to the City.

5. § 381.00655, Florida Statutes, sets forth a required dual notification process when onsite septic systems are to be connected to central sewage systems. The statute states that, “No less than 1 year prior to the date the sewerage system will become available, the [City] shall notify the affected owner of the onsite sewage ... system of the anticipated availability of the sewerage system and shall also notify the owner that the owner will be required to connect to the sewerage system within 1 year of the actual availability.” The City Council finds it to be in the best interests of the City to incorporate the dual notification process into Chapter 70 of the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dunnellon, Florida, as follows:

LEGISLATIVE UNDERSCORING: Underlined words constitute additions to the City of Dunnellon City Code, ~~striketrough~~ constitutes deletions from the original, and asterisks (***) indicate an omission from the existing text which is intended to remain unchanged.

SECTION 1. The City Council adopts the Legislative Findings above.

SECTION 2. Section 70-31 of Chapter 70, Article II, Division 1 of the City of Dunnellon Code of Ordinances is hereby amended as follows:

Sec. 70-31. - Connection required; waivers and exceptions.

(a) Connection required – two notifications. Pursuant to section 381.00655, Florida Statutes, the city shall notify owners of onsite septic systems that the city’s sewer system will be available for connectivity. This initial notification shall occur no less than one year prior to the anticipated date when the city’s sewer system will be available. The city shall provide a second notification to the owner that the owner will be required to connect to the city’s sewer system within 90 days of the actual date of availability. Except as set forth in this section, when a city water and/or sewer main is made available and operative in a public right-of-way or easement abutting property within the city limits or within the city's water or wastewater utility service areas, any existing individual potable water supply and/or sewage disposal system, device or equipment shall, within 90 days from the second notification of availability by the city clerk or designee, be abandoned and the source of potable water and sewage disposal for the residence or building shall be from the city water and/or sewer main.

SECTION 3. A new Article VII of Chapter 70, “Utilities,” is hereby created:

ARTICLE VII. – RIO VISTA SEWER FACILITY CAPITAL CHARGE

Sec. 70-360. – Purpose.

In 2011, the City of Dunnellon acquired the Rio Vista Utility Facilities, a water and wastewater system located outside the City's boundaries and within the City's 180 Utility Service District, so that the Rio Vista Sewer Facility could obtain required permitting from the Florida Department of Environmental Protection. Pursuant to the Utility Purchase Agreement, to reduce connection costs due from Rio Vista sewer customers, the City pursued and obtained grant funds for design, construction, and permitting to connect the Rio Vista Sewer Facility to the City's central sewer system. Under the Agreement, present and future owners of properties connected to the Rio Vista Sewer Facility are to be billed a capital charge of approximately \$20 to \$40 per month until the sewer connection costs are paid in full in approximately fifteen to twenty years. The capital charge reflects the costs which the City incurred to connect the Rio Vista Sewer Facility to the City's central sewer system after applying for grants.

Sec. 70-361. – Rio Vista Sewer Facility Capital Charge.

- (a) Present and future Rio Vista sewer customers or owners of Rio Vista property shall be charged a sewer facility capital charge of between \$20 - \$40 monthly for a period of up to twenty (20) years. The monthly charge shall be set by resolution of city council.
- (b) The sewer facility capital charge shall be in addition to all other fees, costs, and penalties set forth in this chapter.
- (c) These sewer facility capital charge shall be deposited into the sewer improvement fund.

SECTION 3. Severability. If any portion of this Ordinance shall be declared unconstitutional or if the applicability of this Ordinance or any portion thereof to any person or circumstances shall be held invalid, the validity of the remainder of this Ordinance and the applicability of this Ordinance, or any portion thereof to other persons or circumstances, shall not be affected thereby.

SECTION 4. Repeal of Inconsistent Ordinances. All Ordinances and parts of any Ordinance in conflict with this Ordinance are hereby repealed.

SECTION 5. Inclusion in the Code. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Dunnellon; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

SECTION 6. Effective Date. This Ordinance shall be effective immediately upon adoption at the second reading/public hearing.

Upon motion duly made and carried, the foregoing Ordinance was approved upon the first reading on the 14th day of November, 2016.

Upon motion duly made and carried, the foregoing Ordinance was approved and passed upon the second and final reading and public hearing on the 12th day of December, 2016.

Ordinance Posted on the City's website on November 11, 2016. Public hearing advertised on the City's website on November 18, 2016 and advertised in the Riverland News on December 1, 2016.

ATTEST:

CITY OF DUNNELLON

Dawn M. Bowne, M.M.C.
Interim City Manager/City Clerk

Walter Green, Mayor

Approved as to Form and Legal Sufficiency:

Andrew Hand, City Attorney

I HEREBY CERTIFY that copies of the foregoing Ordinance were posted at City Hall, the Chamber of Commerce, and the Dunnellon Library, in the City of Dunnellon, Florida, and on the City's Official Website this 18th day of November 2016.

Dawn M. Bowne M.M.C.
City Clerk

Supplemental Information

Rio Vista WWTP Decommissioning Project

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|--|---------------------|
| Legal Fees for Capital Charge Ordinance #2016-11 | \$ 1,575.00 |
| Newspaper Ad-Ordinance Public Hearing | 28.30 |
| Rio Vista WWTP Decommissioning Project Cost | <u>1,294,259.72</u> |
| Grand Total all Costs | \$1,295,863.02 |
| Grant Funding Received | \$ 914,294.00 |
| Total to Bill Rio Vista Customers | \$ 381,569.02 |
| % of total project billed to Rio Vista Customers | 29.45 |

Supplemental Information

Rio Vista Capital Charge Repayment Schedule

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|------------------|------------|
| Principal Amount | 381,569.02 |
| Monthly Payment | 40 |
| # of Customers | 43 |
| Annual Payment | 20,640.00 |
| Years to Pay | 18.49 |

| | Beginning Balance | Annual Collections | Ending Balance |
|---------|-------------------|--------------------|----------------|
| Year 1 | 381,569.02 | 13,760.00 | 367,809.02 |
| Year 2 | 367,809.02 | 20,640.00 | 347,169.02 |
| Year 3 | 347,169.02 | 20,640.00 | 326,529.02 |
| Year 4 | 326,529.02 | 20,640.00 | 305,889.02 |
| Year 5 | 305,889.02 | 20,640.00 | 285,249.02 |
| Year 6 | 285,249.02 | 20,640.00 | 264,609.02 |
| Year 7 | 264,609.02 | 20,640.00 | 243,969.02 |
| Year 8 | 243,969.02 | 20,640.00 | 223,329.02 |
| Year 9 | 223,329.02 | 20,640.00 | 202,689.02 |
| Year 10 | 202,689.02 | 20,640.00 | 182,049.02 |
| Year 11 | 182,049.02 | 20,640.00 | 161,409.02 |
| Year 12 | 161,409.02 | 20,640.00 | 140,769.02 |
| Year 13 | 140,769.02 | 20,640.00 | 120,129.02 |
| Year 14 | 120,129.02 | 20,640.00 | 99,489.02 |
| Year 15 | 99,489.02 | 20,640.00 | 78,849.02 |
| Year 16 | 78,849.02 | 20,640.00 | 58,209.02 |
| Year 17 | 58,209.02 | 20,640.00 | 37,569.02 |

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| Year 18 | 37,569.02 | 20,640.00 | 16,929.02 |
| Year 19 | 16,929.02 | 16,929.02 | - |

Assumes no additional sewer customers over 19 years

Year 1 - Effective date January 1, 2017. Capital Charge Billed over 8 months