

**Amended Agenda  
City of Dunnellon  
City Council Workshop Meeting  
20750 River Drive, Dunnellon, FL 34431  
August 5, 2020  
5:30 p.m.  
Join Zoom**

<https://dunnellon.zoom.us/j/94354628024?pwd=Tr11RUJvMVp2WVFSZWNUZXBZSzZrUT09>  
Meeting ID: 943 5462 8024

**Dunnellon City Council meeting will be held on August 5, 2020, 5:30 p.m. at Dunnellon City Hall with Social Distancing Modifications.**

**Anyone attending the meeting will be required to wear a mask/face covering. All attendees will be subject to screening to include a temperature check.**

### **Public Comment**

Anyone who wishes to provide public comment will be able to do so by participating in the City Council meeting in person, or via the Zoom "**AUDIO ONLY**" platform and/or telephone, by speaking during public comment portions of the meeting when recognized per the instructions below or by submitting written comments, evidence and/or written testimony in advance of the meeting via email to the City Clerk at [mroberts@dunnellon.org](mailto:mroberts@dunnellon.org)

Members of the public who would like to participate are encouraged to register in advance by Noon on Wednesday August 5th. Please see instructions below on how to register.

Public input on non-agenda items will be heard at the beginning of the meeting. A three (3) minute time limit will be strictly administered.

### **Instructions on How to Listen and/or Participate in the Meeting**

Attachment: [Meeting Instructions \(PDF\)](#)

### **Call to Order**

### **Pledge of Allegiance**

**Opening Prayer/Moment of Silence** (suggested time limit: 1 minute. Mayor to request if any invitee is present to open with prayer; if no invitee is present, Mayor will ask if a Dunnellon citizen will volunteer. If no volunteers, a moment of silence will be offered. If a citizen outside of Dunnellon requests to open with prayer, (s)he may so if no invitees/citizens volunteer.)

### **Roll Call**

**Proof of Publication** - Posted on City's website and City Hall bulletin board on Wednesday, July 29, 2020. Agenda amended on August 3, 2020 to add backup to item #10.

## **1. Board Reports**

2. **Dunnellon Chamber & Business Association Report**
3. **Planning Commission Vacancy - Community Development Manager, Lonnie Smith**

- David Short

Documents:

[20200805\\_David Short Summary ADA.pdf](#)

4. **Agreement #AGR2020-09, Souls' Harbor First Pentecostal Church, Inc. - Addendum #1, Contract Extend Closing - City Administrator, Dawn Bowne**
5. **Resolution #RES2020-14, Police Share Plan & 2017 Fire Provisions - City Clerk, Amanda Roberts**

Documents:

[20200805\\_PoliceSharePlan\\_Agenda Summary.pdf](#)  
[Adoption Agreement Amendment No. 1 Rev 7.1.20.pdf](#)  
[2020-14 Police Share Plan and 2017 Fire Provisions 7.1.20.pdf](#)

6. **#AGR2020-23, FEMA Grant Agreement Z1983 - Finance Manager, Jan Smith**

Documents:

[Agenda Summary\\_AGR2020-23 FEMA COVID-19-signed.pdf](#)

7. **Blue Run Park - Mayor Burns**
8. **Well Head Protection Zone- Councilman White**
9. **Council Comments**
10. **City Attorney Comments (Backup added)**
  - City Attorney to discuss scheduled hearing regarding planning members.

Documents:

[Memorandum - Procedures for PC hearing 8-3-2020.pdf](#)

11. **City Administrator Comments**
12. **Public Comments**

Tentative Agenda for Council Meeting Monday, August 10, 2020 at 5:30 p.m.

## Consent Agenda

- Approval of Minutes
- Approve FEMA Grant Agreement #AGR2020-23
- Approve Addendum # 1 to Agreement #AGR2020-09, Souls Harbor Closing Extension
- Planning Commission Appointment

## Regular Agenda

- Public Hearing to Consider Removal of Planning Commission Members
- Public Hearing - Ordinance #ORD2020-05, Comprehensive Plan Amendment #CPA2020-03, Aquifer Protection Element and Well/Wellhead Protection Zone Map (Posted on the City's website on July 22, 2020 and Advertised in the Riverland News on July 30, 2020 and in the Ocala Star Banner on July 30, 2020)
- Final Reading Ordinance #ORD2020-05, Comprehensive Plan Amendment
- Public Hearing - Ordinance ORD2020-06, Land Development Regulations - Chapter 98 - Subdivisions and Land Development (Posted on the City's Website on July 22, 2020 and Advertised in the Riverland News on July 30, 2020 and in the Ocala Star Banner on July 30, 2020)
- Final Reading Ordinance ORD2020-06, Land Development Regulations - Chapter 98 - Subdivisions and Land Development
- Resolution #RES2020-14, Police Share Plan & 2017 Fire Provisions
- FY2019-2020 Third Quarter Budget Update

Any Person Requiring a Special Accommodation at This Hearing Because of a Disability or Physical Impairment Should Contact the City Clerk at (352) 465-8500 at Least 48 Hours Prior to the Proceeding. If a Person Desires to Appeal Any Decision with Respect to Any Matter Considered at the Above Meeting or Hearing, He or She Will Need a Record of the Proceeding, and for Such Purpose, He or She May Need to Ensure That a Verbatim Record of the Proceedings Is Made, Which Includes the Testimony and Evidence Upon Which the Appeal Is to Be Based. The City Is Not Responsible for Any Mechanical Failure of Recording Equipment.

**CITY OF DUNNELLON  
COUNCIL  
AGENDA SUMMARY FORM**

**Meeting Date:** 8/05/2020 Workshop  
8/10/2020 Regular Meeting

**Review by City Attorney:**

**Submitting Dept.:** Community Development

**Council Action:**

**Department Head Approval:** *tam/LS7292020*

**Date of Action:**

**City Administrator Approval:**

**Subject:** Board Member Application – Planning Commission

**Request for Approval Summary Explanation & Background:**

Application received from city resident, David Short, for a vacant position on the Planning Commission. According to the application, Mr. Short has lived in the city since 2004 and currently resides at 20900 W. Pennsylvania Ave., is retired, attended University of Miami, BBA-Industrial Management, and is a State of Florida Certified General Contractor since 1980 in residential, commercial and industrial construction. Mr. Short noted he has been involved in all phases of construction from land acquisition, structure construction and marketing finish products since 1971. Mr. Short is a registered voter, does not currently hold a public office, and is not employed by the City, owns property within the city limits and has since 2002. On 2/27/2020, Mr. Short emailed an addendum to his application reporting he volunteered for past service on the city's Historic Preservation Board and the Community Redevelopment Area Advisory Board until its dissolution.

Current vacancies: 1st Alternate.

**Fiscal Information:**

**Procurement Method:**

**Purchase Requisition#:**

**Recommended Action:** To move Mr. David Lancaster into 1<sup>st</sup> Alt. to fill the unexpired term of Mr. Jay Dugan, 8/10/2020 - 1/12/2021; and to consider Mr. David Short for appointment to 2<sup>nd</sup> Alt. to fill the unexpired term of Mr. Lancaster, 8/10/2020 – 7/23/2021.

Sec. 94-32. - Qualifications of members.

As provided in section 94-31, the city planning commission consists of five members plus two alternate members, appointed by the city council. A minimum of three members and one alternate shall be residents of the city. A maximum of two members and one alternate may be non-resident property owners and/or non-resident business owners. Non-resident property owners and/or non-resident business owners must have owned property and/or owned a business within the city for three years prior to being eligible for said appointment. No member of the planning commission shall be a paid employee or elected official of the city.

(Code 1985, § 2-92; [Ord. No. 2011-13, § 2, 1-23-2012](#))

**Initiated by:** tam/LS

City of Dunnellon  
Agenda Summary Form

**Meeting Date:** August 10, 2020

1. Responsible Department: City Clerk
2. Presenter: City Clerk
3. Recommended Action: Consider Resolution #RES2020-14 Police Share Plan, Fire Provision and Amended Adoption Agreement

**Subject:** RES2020-14 Police Share Plan, Fire Provision and Amended Adoption Agreement

**Request for Approval Summary Explanation & Background:**

As a result of Marion County providing fire rescue services and the dissolution of the Dunnellon Fire Department, the Retirement Plan and Trust Adoption Agreement must be revised to reflect that there are no active firefighters in the plan and all assets in the plan attributable to firefighters shall remain in the fund for the purpose of providing future benefits. Additionally, the City Council approved FLPBA Bargaining Unit Agreement #AGR2018-33 on August 13, 2018 providing for the implementation of a Share Plan utilizing 50% of the excess Chapter 185 Premium Excise Tax Reserve as of October 1, 2017. The proposed resolution establishes the Share Plan and adopts the Plan and Trust Amended Adoption Agreement addressing both necessary revisions.

**Procurement Method:** N/A

**Fiscal Information:** No impact to City budget.

**Department Head Approval:**

**City Administrator Approval:**

**Attorney Review:** Yes or No

**FLORIDA MUNICIPAL PENSION TRUST FUND  
DEFINED BENEFIT PLAN AND TRUST**

**ADOPTION AGREEMENT AMENDMENT NO. 1**

The undersigned employer adopts the Florida Municipal Pension Trust Fund Defined Benefit Plan and Trust for those Employees who shall qualify as Participants hereunder, to be known as the Retirement Plan and Trust for the Firefighters and Police Officers of the City of Dunnellon:

It shall be effective as of the date specified below. The Employer hereby selects the following Plan specifications:

**EMPLOYER INFORMATION**

<b>Employer:</b>	City of Dunnellon
<b>Contact Name and Title:</b>	Dawn Bowne
<b>Address:</b>	20750 River Drive Dunnellon, FL 34431
<b>Telephone:</b>	(352) 465-8500

**NAME AND ADDRESS OF TRUSTEE:**

Florida Municipal Pension Trust Fund  
301 S. Bronough St. Suite 301 Tallahassee, FL 32301  
TEL: (904) 222-9684 Fax: (904)222-3806

**LOCATION OF EMPLOYER'S PRINCIPAL OFFICE:**

The Employer is located in the State of Florida and this Trust shall be enforced and construed under the laws of the State of Florida.

**EMPLOYER FISCAL YEAR:**

Twelve months commencing on October 1st and ending on September 30th.

**A. PLAN INFORMATION**

This Adoption Agreement shall establish a Plan and Trust with the following provisions:

- A1) **Effective Date:** January 1, 1996
- A2) **Plan Year (12 consecutive month period):**  
Beginning October 1 and Ending September 30
- A3) **Plan Anniversary Date (Annual Valuation Date):** October 1
- A4) **Name of Plan Administrator:**  
Florida Municipal Pension Trust Fund  
301 S. Bronough St. Suite 301 Tallahassee, FL 32301  
Tel: (904) 222-9684 Fax: (904) 222-3806

**A5) Florida Municipal Pension Trust Fund I.D. Number: 59-2961075**

**A6) Plan's Agent for Legal Process:**

Florida Municipal Pension Trust Fund  
301 S. Bronough St. Suite 301 Tallahassee, FL 32301  
Tel: (904) 222-9684 Fax: (904) 222-3806

**B. PLAN**

The Plan represents the Full-Time Firefighters (*as defined in Ch. 175.032, Fl. Stat.*) and Police Officers (*as defined in Ch. 185.02, Fl. Stat.*) of the City of Dunnellon:

**C. ELIGIBILITY**

Employees shall become participants in the plan effective immediately when hired. (*as defined in Ch. 175 & Ch. 185 Fl. Stat.*)

**D. SALARY**

**FIREFIGHTER**

Means the fixed monthly compensation paid a Firefighter and where, as in the case of a volunteer firefighter, compensation is derived from actual services rendered, salary shall be the total cash compensation received yearly for such services, prorated on a monthly basis. The remuneration paid a Firefighter by the employer for a plan year excludes Lump Sum payments for Accrued Sick Leave and other Lump Sum payments such as; Exit Bonus, Severance payments, Christmas bonus, etc. as stated in the FRS rules.

**POLICE OFFICER**

Means the total cash remuneration paid to a Police Officer for services rendered, including overtime payments which may be limited to not less than 300 hours per calendar year, but not including any payments for extra duty or special detail work performed on behalf of a second party employer.

The remuneration paid a Police by the employer for a plan year excludes Lump Sum payments for Accrued Sick Leave and other Lump Sum payments such as; Exit Bonus, Severance payments, Christmas bonus, etc. as stated in the FRS rules.

**E. CREDITED SERVICE**

**E1) Definition**

Credited service shall mean the total number of years and fractional parts of years of service as a Participant during which the Participant made required contributions to the Plan, omitting intervening years or fractional parts of years when such Participant is not employed by the Employer. (*See Plan Definition*)

**E2) Option of Purchasing Prior Credited Service**

Credited service shall also include credited service purchased by a member in accordance with this section:

- a) Participants who are employed in a position covered by the Plan may purchase up to five (5) additional years of credited service under the Plan for all or a portion of their previous full-time employment as a Police Officer or Firefighter with the federal government, including military service, any state, county or city government, other than the City of Dunnellon. Any participant who elects to purchase previous full-time employment shall pay the full actuarial cost of such credited service on or before three (3) months from the date of the past service cost calculation, in accordance with subsection (c) below.
- b) Participants who are employed in a position covered by the Plan, may purchase an increased multiplier rate for all previous credited service in the plan earned prior to October 1, 2011 in the amount of ½ of 1 percent such that all years of credited service in the plan will be multiplied by 2.5%. Participants must purchase all previous service at one time. Any participant who elects to purchase an increased multiplier shall pay the full actuarial cost of such credited service on or before three (3) months from the date of the past service cost calculation, in accordance with subsection (c) below. Participants will be responsible to pay the full cost of the actuarial calculation such that the fund does not incur any expense associated with this purchase.
- c) Payment for the purchase of credited service authorized in subsection (a) and (b), above, shall be made in one of the following manners:
  1. Cash lump sum payment.
  2. Direct transfer or rollover of an eligible rollover distribution from a qualified Plan.

*Full payment for the purchase of past service credit must be made before separation from City employment. If full payment is not made by time of separation, credited service shall be based on amount of payment actually received by the plan at the time of termination.*

**F. AVERAGE FINAL COMPENSATION**

Shall mean one-twelfth (1/12) of the average annual compensation of the five (5) best years of the last ten (10) years of Credited Service prior to retirement, termination or death, or the career average, whichever is greater.

**G. BENEFIT AMOUNTS AND ELIGIBILITY (Section 6)**

**G1) Normal Retirement Date (Section 6.01):**



A member's normal retirement date shall be the first day of the month coincident with, or next following attainment of age 55 and 10 years of service or the attainment of 25 years of service regardless of age.

**G2) Normal Retirement Benefit (Section 6.02):**

The monthly retirement benefit shall be the sum of A. and B.

- A. The number of years of credited service earned and purchased prior to October 1, 2011, multiplied by 2% and multiplied by average final compensation.
- B. The number of years of credited service both earned and purchased after September 30, 2011, multiplied by 2.5% and multiplied by average final compensation

**G3) Early Retirement Date (Section 6.03):**

A member may retire on his early retirement date which shall be the first day of any month coincident with or next following the later of the attainment of age 50 and the completion of 10 years of credited service.

**G4) Early Retirement Benefit (Section 6.04):**

The amount of the accrued benefit will be reduced by 3% for each year before the normal retirement date.

**H. DISABILITY BENEFITS (Section 8)**

**H1) Disability Benefits In Line of Duty:**

A member deemed to be totally and permanently disabled from a service connected injury or disease will receive the greater of a monthly pension equal to **65%** of average compensation, or an amount equal to the accrued retirement benefit.

**H2) Disability Benefits Off-Duty:**

A member deemed to be totally and permanently disabled from a non-service connected injury or disease will receive the greater of a monthly pension equal to **25%** of average compensation or an amount equal to the accrued retirement benefit.

**I. DEATH BENEFITS**

**I1) Death Prior to Vesting - In-Line-Of-Duty:**

If a member dies prior to retirement in-the-line-of-duty, and he is not vested, his beneficiary shall receive a refund of one hundred percent (100%) of the member's accumulated contributions.

**I2) Death After Vesting - In-Line-Of-Duty:**

If a member dies prior to retirement in-the-line-of-duty, but he is vested, having completed the required years of credited service, his beneficiary shall receive the benefits otherwise payable to the member at the member's early or normal retirement date.

**13) Death Prior to Vesting - Off-Duty:**

If a member dies prior to retirement other than in-the-line-of-duty, but he is not vested, his beneficiary shall receive a refund of one hundred percent (100%) of the member's accumulated contributions.

**14) Death After Vesting - Off-Duty:**

If a member dies prior to retirement other than in-the-line-of-duty, but he is vested, having completed the required years of credited service, his beneficiary shall receive the benefits otherwise payable to the member at the member's early or normal retirement date.

**J. TERMINATION OF EMPLOYMENT AND VESTING**

If a member's employment is terminated either voluntarily or involuntary, the following benefits are payable:

1) If the member has less than 10 years of credited service upon termination the member shall be entitled to a refund of the money he has contributed or the member may leave it deposited with the Fund.

2) If the member has 10 or more years of credited service upon termination the member shall be entitled to their accrued monthly retirement benefit, starting at the member's otherwise normal or early retirement date, provided he does not elect to withdraw his contributions and provided he survives to his normal or early retirement date.

**K. EMPLOYEE CONTRIBUTIONS (Section 5.01):**

Members of the Retirement System shall be required to make regular contributions to the Fund in the amount of 1% of their salary on a pre-tax basis.

**L. COST OF LIVING ADJUSTMENT (Optional Benefit)**

Not applicable unless otherwise stated.

**M. DEFERRED RETIREMENT OPTION PROGRAM-"DROP" (Optional Benefit)**

In general, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is a program under which an eligible member of the Plan may elect to participate, deferring receipt of retirement benefits while continuing employment with the City of Dunnellon. The deferred

monthly benefits shall accrue in the Trust Fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits.

**(a) Eligibility of member to participate in the DROP**

All active members are eligible to elect participation in the DROP provided that: Election to participate must be made within 60 months immediately following the date on which the member first reaches normal retirement date or, for a member who reaches normal retirement date based on service before he or she reaches age 55. For a member who first reached normal retirement date or the deferred eligibility date described above prior to the effective date of this section, election to participate shall be made within 3 months after the effective date of this section. A member who fails to make an election within such 3 month limitation period shall forfeit all rights to participate in the DROP. The member shall advise the City of Dunnellon in writing of the date on which the DROP shall begin. Such beginning date must be within the limitation period as provided in subparagraph (b)1.

**(b) Participation in the DROP**

1. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of 60 calendar months immediately following the date on which the member first reaches his or her normal retirement date or the date to which he or she is eligible to defer his or her election to participate as provided in subparagraph (a). However, a member who has reached normal retirement date prior to the effective date of the DROP shall be eligible to participate in the DROP for a period of time not to exceed 60 calendar months immediately following his or her election to participate in DROP.

2. Upon deciding to participate in the DROP, the member shall submit, on forms:

- a. A written election to participate in the DROP;
- b. Selection of the DROP participation and termination dates, which satisfy the limitations stated in paragraph (a) and subparagraph 1. Such termination date shall be in a binding letter of resignation with the employer, establishing a deferred termination date. The member may change the termination date within the limitations of subparagraph 1, but only with the written approval of the City of Dunnellon;
- c. A properly completed DROP application for service retirement as provided in this section; and
- d. Any other information required.

3. The DROP participant shall be a retiree under the Plan. However, participation in the DROP does not alter the participant's employment status and such employee

shall not be deemed retired from employment until his or her deferred resignation is effective and termination occurs.

**(c) Benefits payable under the DROP**

1. Effective with the date of DROP participation, the member's initial normal monthly benefit, including creditable service, optional form of payment and average final compensation, and the effective date of retirement shall be fixed. The beneficiary shall be the beneficiary eligible to receive any DROP benefits payable if the DROP participant dies prior to the completion of the period of DROP participation. In the event a joint annuitant predeceases the member, the member may name a beneficiary to receive accumulated DROP benefits payable. Retirement benefits shall accrue monthly in the Trust Fund. Interest shall accrue at an effective annual rate of 2 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death.

2. The effective date of DROP participation and the effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in the DROP, provided such date is properly established, with the written confirmation of the employer.

3. Normal retirement benefits and interest thereon shall continue to accrue in the DROP until the established termination date of the DROP, or until the participant terminates employment or dies prior to such date. Although individual DROP accounts shall not be established, a separate accounting of each participant's accrued benefits under the DROP shall be calculated and provided to participants.

4. At the conclusion of the participant's DROP, the TRUST shall distribute the participant's total accumulated DROP benefits, subject to the following provisions:

a.. The terminated DROP participant or, if deceased, such participant's named beneficiary, shall elect on forms to receive payment of the DROP benefits in accordance with one of the options listed below. For a participant or beneficiary who fails to elect a method of payment within 60 days of termination of the DROP, the Plan will pay a lump sum as provided in sub-sub-subparagraph (I).

(I) Lump sum.--All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

(II) Direct rollover.--All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code.

(III) Partial lump sum.--A portion of the accrued DROP benefits shall be paid to the DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined

in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.

b. The form of payment selected by the DROP participant or surviving beneficiary complies with the minimum distribution requirements of the Internal Revenue Code.

c. A DROP participant who fails to terminate employment shall be deemed not to be retired, and the DROP election shall be null and void. Dunnellon Firefighter & Police Officer Pension Plan membership shall be reestablished retroactively to the date of the commencement of the DROP.

5. The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever, except for qualified domestic relations orders by a court of competent jurisdiction, income deduction orders and federal income tax levies.

6. DROP participants shall not be eligible for disability retirement benefits.

**(d) *Death benefits under the DROP***

1. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP.

2. The normal retirement benefit accrued to the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant.

3. Eligibility to participate in the DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, Dunnellon Firefighter & Police Officer Pension Plan benefits shall be paid in accordance with regular retirement benefit provisions.

4. A DROP participants' survivors shall not be eligible to receive Dunnellon Firefighter & Police Officers Pension Plan active member death benefits.

**(e) *Forfeiture of retirement benefits***

Nothing in this section shall be construed to remove DROP participants from the scope of s. 8(d), Art. II of the State Constitution, or F.S. s.112.3173. DROP participants who commit a specified offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

**N. RETIREMENT PLAN CHANGES FOR FIREFIGHTERS EFFECTIVE OCTOBER 1, 2017**

Notwithstanding any other provision of this Plan and pursuant to Resolution 2017-35 and the Interlocal Service Agreement between the City of Dunnellon and Marion County (#AGR2017-39) entered into on September 25, 2017, Marion County began providing service in the City on October 1, 2017, and on that date Dunnellon Fire Rescue was dissolved leaving no active firefighters employed by the City. Accordingly, the Plan was closed to firefighters on October 1, 2017, and all assets in this Fund attributable to firefighters shall remain in this Fund, for the purpose of providing benefits to firefighters as provided in this Plan.

**O. SUPPLEMENTAL POLICE OFFICERS "SHARE PLAN"**

The supplemental Police Officers Share Plan is attached hereto as Attachment No. 1.

This Adoption Agreement may be used only in conjunction with the Basic Plan Document.

This Adoption Agreement and the Basic Plan Document shall together be known as the Retirement Plan & Trust for the Firefighters & Police Officers of the City of Dunnellon.

We have consulted our attorney with reference to this Plan and Trust Agreement.

We understand that the City of Dunnellon may amend any election in this Adoption Agreement by giving the Trustee written notification of such Amendment as adopted.

The Employer hereby agrees to the provisions of the Plan and Trust.

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Retirement Plan and Trust for the Firefighters and Police Officers of the City of Dunnellon  
**ADOPTION AGREEMENT AMENDMENT NO. 1**

IN WITNESS WHEREOF, the City of Dunnellon hereby causes this Amendment No. 1 to this Agreement to be executed on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**EMPLOYER:**

City of Dunnellon  
(Name of Employer)

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

\_\_\_\_\_  
(Name of Trustee)

**Date:** \_\_\_\_\_

\_\_\_\_\_  
(Name of Trustee)

**Date:** \_\_\_\_\_

**ATTACHMENT No. 1**

**RETIREMENT PLAN FOR FIREFIGHTERS AND POLICE OFFICERS  
OF THE CITY OF DUNNELLON**

**Police Officers' Share Plan**

A defined contribution plan component (share plan) for police officers is hereby established as part of the City of Dunnellon Retirement Plan for Firefighters and Police Officers pursuant to section 185.35(6), Florida Statutes. The share plan shall be funded solely and entirely by Chapter 185 premium tax revenues allocated to the share plan, as provided herein. The share plan benefit is in addition to the benefits provided by the Retirement Plan.

(1) Eligible police officers and share accounts.

Police officers who were contributing to and participating in the Retirement Plan on October 1, 2017 shall be eligible to participate in the share plan for purposes of the initial allocation. Police officers who were contributing to and participating in the Retirement Plan on October 1, 2017, and police officers hired after that date shall be eligible to participate in the share plan for purposes of the annual allocation. Police officers who retired before October 1, 2017, former police officers who left city employment before October 1, 2017, and the beneficiaries of any police officer shall not be eligible to participate in the share plan. An individual share account shall be established for each eligible police officer, and the board shall ensure that appropriate records are maintained showing the respective share account balance of each eligible police officer. The maintenance of separate share accounts is for accounting purposes only, and a segregation of the assets of the trust fund to each account shall not be required.

(2) Allocation of Chapter 185 Premium Tax Revenues to the Share Plan.

(a) Initial allocation. One-half of the accumulated excess Chapter 185 premium tax revenues on October 1, 2018 (\$34,248) shall be allocated to the share plan as soon as administratively practical after the adoption of this ordinance.

(b) Annual allocation. The City and the union representing City police officers have mutually agreed that all annual Chapter 185 premium tax revenues shall be used to offset future City contributions to the Retirement Plan. Unless the mutual agreement is renegotiated, there shall be no annual allocation of premium tax revenues to the share plan.

(3) Share account funding.

In any year that Chapter 185 premium tax revenues are allocated to the share plan, the total amount of premium tax revenues allocated to the share plan shall be divided equally among all eligible police officers as of September 30 of the plan year in which the allocation is made, with each eligible police officer receiving an equal share of the total.



Share plan monies credited to actively employed police officers shall be placed in the police officer's share account. Share plan monies credited to vested terminated and retired police officers (police officers who are employed on September 30 of any year in which an annual allocation is made to the share plan and retire or terminate City employment with ten (10) or more years of credited service after that date) shall be paid directly to the vested terminated or retired police officer in a one-time payment.

(4) Interest on Share Accounts.

As of September 30 each year, the share account balance of each actively employed police officer shall be credited with interest at the rate of three percent (3%) per annum, prorated for the number of complete months the police officer was employed during the year ending September 30. If the net return on Retirement Plan investments is less than 3% for that plan year, interest will be the net rate of return on Retirement Plan, with a minimum of zero.

(5) No Administrative Fee.

There is no administrative fee on share accounts; however, an investment fee will be assessed.

(6) Annual Statements.

The board shall provide each eligible police officer with an annual statement setting forth their share account balance as of September 30 each year, and each vested terminated member and retiree who receives a share plan payment shall receive a statement reflecting the payment.

(7) Payment of benefits.

An eligible police officer's share account balance shall be distributed to the officer within 90 days following separation from employment with ten (10) or more years of credited service. The police officer may elect to roll over all or part of the share account balance to an IRA or other qualified plan in accordance with IRS regulations. In the event a police officer's separation from city employment is caused by disability or death, the police officer or the police officer's designated beneficiary shall receive the police officers share account balance as of the date of disability or death, regardless of length of service.

(8) No right to allocation.

The allocation or credit of an allocation to a police officer's share account shall not vest in any police officer any right, title, or interest in the assets of the Retirement Plan or in the Chapter 185 premium tax revenues except at the time or times, to the extent, and subject to the terms and conditions provided in this section.

(9) Forfeitures.

Retirement Plan and Trust for the Firefighters and Police Officers of the City of Dunnellon  
**ADOPTION AGREEMENT AMENDMENT NO. 1**

An eligible police officer who terminates city employment with less than ten (10) years of credited service, other than for disability or death, shall forfeit his individual police officer share account. A police officer's share account is also subject to forfeiture as provided in section 112.3173, Florida Statutes. Forfeited amounts shall be redistributed to the other share plan participants in the year following forfeiture, in equal shares, except forfeitures of the initial allocation amount, plus interest, shall be redistributed only among the police officers who were contributing to and participating in the Retirement Plan on October 1, 2017.

(10) Benefits not guaranteed.

All benefits payable under this section shall be paid only from the Chapter 185 premium tax revenues allocated to individual police officer share accounts, plus interest, or paid directly to retirees as provided herein. Neither the city nor the board shall have any duty or liability to furnish any additional funds, securities or other assets to fund share benefits.

**RESOLUTION #RES2020-14**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNNELLON, MARION COUNTY, FLORIDA; AMENDING THE RETIREMENT PLAN AND TRUST FOR THE FIREFIGHTERS AND POLICE OFFICERS OF THE CITY OF DUNNELLON TO PROVIDE A POLICE OFFICERS' SHARE PLAN, AND A PROVISION REFLECTING THE 2017 CHANGES CONCERNING FIREFIGHTERS; ADOPTING AMENDMENT NO. 1 TO THE RETIREMENT PLAN AND TRUST ADOPTION AGREEMENT; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Council established a Retirement Plan and Trust for the Firefighters and Police Officers of the City of Dunnellon pursuant to Ordinance Number 1995-09 and Resolution 1995-33; and

WHEREAS, the Retirement Plan and Trust Adoption Agreement was approved and executed by the City of Dunnellon on December 11, 1995, and most recently amended by Resolution #RES2013-25; and

WHEREAS, the Retirement Plan and Trust authorizes the City Council to amend the Plan and Trust Adoption Agreement, in whole or in part, either retroactively or prospectively, by delivering to the Trustee a written amendment in accordance with the limitations set out in that section; and

WHEREAS, the City Council desires to amend the Plan and Trust and the Plan and Trust Adoption Agreement to provide a Share Plan to its police officer members in accordance with its agreement with the Police Benevolent Association; and

WHEREAS, the City Council desires to also amend the Plan and Trust Adoption Agreement to reflect the prior amendment to the Retirement Plan and Trust approved pursuant to Resolution RES#2017-35, which recognizes the Interlocal Service Agreement between the City of Dunnellon and Marion County Agreement (#AGR2017-39); and

WHEREAS, the City Council desires to approve this Amendment No. 1 to the Plan and Trust Adoption Agreement recognizing the above amendments to the Plan and Trust.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNNELLON:

SECTION 1. The City Council of the City of Dunnellon, in its capacity as the Trustee of the Retirement Plan and Trust for the Firefighters and Police Officers of the City of Dunnellon hereby adopts Plan and Trust Adoption Agreement Amendment No. 1, which amends the Adoption Agreement as follows:

\* \* \*

**N. RETIREMENT PLAN CHANGES FOR FIREFIGHTERS EFFECTIVE OCTOBER 1, 2017**

Notwithstanding any other provision of this Plan and pursuant to Resolution 2017-

35 and the Interlocal Service Agreement between the City of Dunnellon and Marion County (#AGR2017-39) entered into on September 25, 2017, Marion County began providing service in the City on October 1, 2017, and on that date Dunnellon Fire Rescue was dissolved leaving no active firefighters employed by the City. Accordingly, the Plan was closed to firefighters on October 1, 2017, and all assets in this Fund attributable to firefighters shall remain in this Fund, for the purpose of providing benefits to firefighters as provided in this Plan.

**O. SUPPLEMENTAL POLICE OFFICERS' "SHARE" PLAN**

The supplemental Police Officers' Share Plan is attached hereto as Attachment No. 1.

SECTION 2. The supplemental Police Officers Share Plan, which is included in the Plan and Trust Adoption Agreement as Attachment No. 1, is attached to this Resolution as Exhibit 1.

SECTION 3. The City Council of the City of Dunnellon hereby empowers the Mayor of the City of Dunnellon with the authority to execute such documents and agreements as are required to effectuate this amendment to the Plan and Trust.

SECTION 4. All Resolutions or parts of Resolutions, in conflict with this Resolution are hereby repealed.

SECTION 5. This Resolution shall be effective August 10, 2020.

DULY PASSED AND ADOPTED by the City Council of the City of Dunnellon, Florida at a regular meeting on this 10th day of August 2020.

\_\_\_\_\_  
C. Dale Burns, Jr., Mayor

ATTEST

\_\_\_\_\_  
Amanda L. Roberts, CMC  
City Clerk

Approved as to form and legal sufficiency

\_\_\_\_\_  
Andrew Hand, City Attorney

**Exhibit #1**

**RETIREMENT PLAN FOR FIREFIGHTERS AND POLICE OFFICERS  
OF THE CITY OF DUNNELLON  
Police Officers' Share Plan**

**Police Officers' Share Plan**

A defined contribution plan component (share plan) for police officers is hereby established as part of the City of Dunnellon Retirement Plan for Firefighters and Police Officers pursuant to section 185.35(6), Florida Statutes. The share plan shall be funded solely and entirely by Chapter 185 premium tax revenues allocated to the share plan, as provided herein. The share plan benefit is in addition to the benefits provided by the Retirement Plan.

(1) Eligible police officers and share accounts.

Police officers who were contributing to and participating in the Retirement Plan on October 1, 2017 shall be eligible to participate in the share plan for purposes of the initial allocation. Police officers who were contributing to and participating in the Retirement Plan on October 1, 2017, and police officers hired after that date shall be eligible to participate in the share plan for purposes of the annual allocation. Police officers who retired before October 1, 2017, former police officers who left city employment before October 1, 2017, and the beneficiaries of any police officer shall not be eligible to participate in the share plan. An individual share account shall be established for each eligible police officer, and the board shall ensure that appropriate records are maintained showing the respective share account balance of each eligible police officer. The maintenance of separate share accounts is for accounting purposes only, and a segregation of the assets of the trust fund to each account shall not be required.

(2) Allocation of Chapter 185 Premium Tax Revenues to the Share Plan.

(a) Initial allocation. One-half of the accumulated excess Chapter 185 premium tax revenues on October 1, 2018 (\$34,248) shall be allocated to the share plan as soon as administratively practical after the adoption of this ordinance.

(b) Annual allocation. The City and the union representing City police officers have mutually agreed that all annual Chapter 185 premium tax revenues shall be used to offset future City contributions to the Retirement Plan. Unless the mutual agreement is renegotiated, there shall be no annual allocation of premium tax revenues to the share plan.

(3) Share account funding.

In any year that Chapter 185 premium tax revenues are allocated to the share plan, the total amount of premium tax revenues allocated to the share plan shall be divided equally among all eligible police officers as of September 30 of the plan year in which the allocation is made, with each eligible police officer receiving an equal share of the total. Share plan monies credited to actively employed police officers shall be placed in the police officer's share account. Share plan monies credited to vested terminated and retired police officers (police officers who are employed on September 30 of any year in which an annual allocation is made to the share plan and retire or terminate City employment with ten (10) or more years of credited service after that date) shall be paid directly to the vested terminated or retired police officer in a one-time payment.

Resolution #RES2020-14, Police Share Plan and Fire Provision

(4) Interest on Share Accounts.

As of September 30 each year, the share account balance of each actively employed police officer shall be credited with interest at the rate of three percent (3%) per annum, prorated for the number of complete months the police officer was employed during the year ending September 30. If the net return on Retirement Plan investments is less than 3% for that plan year, interest will be the net rate of return on Retirement Plan, with a minimum of zero.

(5) No Administrative Fee.

There is no administrative fee on share accounts; however, an investment fee will be assessed.

(6) Annual Statements.

The board shall provide each eligible police officer with an annual statement setting forth their share account balance as of September 30 each year, and each vested terminated member and retiree who receives a share plan payment shall receive a statement reflecting the payment.

(7) Payment of benefits.

An eligible police officer's share account balance shall be distributed to the officer within 90 days following separation from employment with ten (10) or more years of credited service. The police officer may elect to roll over all or part of the share account balance to an IRA or other qualified plan in accordance with IRS regulations. In the event a police officer's separation from city employment is caused by disability or death, the police officer or the police officer's designated beneficiary shall receive the police officer's share account balance as of the date of disability or death, regardless of length of service.

(8) No right to allocation.

The allocation or credit of an allocation to a police officer's share account shall not vest in any police officer any right, title, or interest in the assets of the Retirement Plan or in the Chapter 185 premium tax revenues except at the time or times, to the extent, and subject to the terms and conditions provided in this section.

(9) Forfeitures.

An eligible police officer who terminates city employment with less than ten (10) years of credited service, other than for disability or death, shall forfeit his individual police officer share account. A police officer's share account is also subject to forfeiture as provided in section 112.3173, Florida Statutes. Forfeited amounts shall be redistributed to the other share plan participants in the year following forfeiture, in equal shares, except forfeitures of the initial allocation amount, plus interest, shall be redistributed only among the police officers who were contributing to and participating in the Retirement Plan on October 1, 2017.

(10) Benefits not guaranteed.

All benefits payable under this section shall be paid only from the Chapter 185 premium tax revenues allocated to individual police officer share accounts, plus interest, or paid directly to retirees as provided herein. Neither the city nor the board shall have any duty or liability to furnish any additional funds, securities or other assets to fund share benefits.

**City of Dunnellon  
Council  
Agenda Summary Form**

**Meeting Date:** August 5, 2020

**Review by City Attorney:**

**Responsible Dept.:** Finance

**Council Action:**

**Department Head Approval:** *Jan Smith*

**Date of Action:**

**City Administrator Approval:**

**Subject:** AGR#2020-23 FEMA Grant Agreement Z1983

**Request for Approval Summary Explanation & Background:**

Certain costs incurred as a result of the COVID-19 pandemic are eligible for 75% FEMA reimbursement. To begin the reimbursement process the City must execute FEMA grant agreement #Z1983. The timeframe and the grant funding amount are undetermined at this time since the pandemic is ongoing. FEMA will notify the City when the deadline for the grant is determined.

**Fiscal Information:** TBD

**Procurement Method:** Per Federal (FEMA) requirements

**Purchase Requisition#:** N/A

**Recommended Action:** Authorize the Mayor to sign AGR#2020-23 FEMA Grant Agreement Z1983

**Initiated by:** JS

# Memo

**To:** Dunnellon City Council  
**From:** Andrew J. Hand, City Attorney  
**Date:** August 3, 2020  
**Re:** **Recommended Procedures for Board Member Removal (PC)**

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The City Council of the City of Dunnellon has provided two members of the Planning Commission with initial notice of its intent to hold a hearing to determine whether cause exists to remove said members. The purpose of this memorandum is to outline recommended procedures and options the City Council may wish to consider in advance of and for the hearing. In short, to address due process concerns and to provide a fulsome record should the City Council's ultimate decision result in litigation, it is recommended that the City Council provide the members with notice of the specific grounds which may constitute cause for removal, hire independent special counsel to review the matter and present facts and evidence at the hearing, and follow the procedures outlined in FLA. STAT. § 112.501 in addition to those discussed below.

As the first two recommendations stem from the guidance provided in Fla. Stat. § 112.501, I will first address the statute. Section 7 of the City of Dunnellon's Charter generally provides: "The city council shall have authority to create and establish such other offices of the said City of Dunnellon as may be necessary and to consolidate such offices so created by them, and to abolish the same upon the expiration of the term of any office so created." This section does not specifically address the removal of officers or board members, just the consolidation and abolishment of offices. The City's Code does address the removal of Planning Commission members and states: "The city council is authorized to remove any member of the planning



commission for cause, after written notice and public hearing.” Sec. 94-33. The Code provides no further details regarding the appropriate procedure for the hearing.

Section 112.501, Florida Statutes, provides mandatory requirements and limited guidance regarding the suspension or removal procedure of municipal board members where the municipality’s *charter* does not provide a different procedure. FLA. STAT. 112.501(8). As the City of Dunnellon Charter does not provide a removal procedure, the statute provides for suspension or removal in the following manner: “By resolution specifying facts sufficient to advise a municipal board member as to the basis for his or her suspension or removal and after reasonable notice to the municipal board member and an opportunity for the member to be heard, a governing body of the municipality may . . . [s]uspend or remove from office any board member for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform his or her official duties.” FLA. STAT. § 112.501(2)(a) (emphasis added).

There are few cases providing guidance as to the precise order or procedure for the removal hearing. Yet, some things are clear. The statute is consistent with the City’s Code, providing for removal for cause following notice and a hearing. Under the statute, cause includes malfeasance, misfeasance, neglect of duty, incompetence, disability, or habitual drunkenness. Notice to the member must be reasonable, the hearing must provide the member with an opportunity to be heard, and the resolution finalizing the removal must inform the member of the facts forming the basis for the suspension or removal. Compliance with these standards satisfies both the statute and the Code.

“Misfeasance,” generally, is the improper doing of an act or the refraining from doing an act (nonfeasance) which is something the person might otherwise lawfully do and is likely to or causes injury. “The question appears to be essentially one of whether the defendant has gone so far in what he has actually done, and has got himself into such a relation with the plaintiff, that he has begun to affect the interests of the plaintiff adversely, as distinguished from merely failing to confer a benefit upon him.” *Prosser and Keeton on the Law of Torts* § 56, at 373-75 (W. Page Keeton et al. eds., 5th ed. 1984) (footnotes omitted). Mere negligent acts, done without intent, can constitute misfeasance. Thus, the performance of an otherwise legal act in an improper manner constitutes misfeasance.

“Malfeasance,” on the other hand, by a public official is the “performance of a completely illegal or wrongful act.” It is similar to the intentional commission of a crime. Malfeasance requires

a higher evidentiary showing than misfeasance, though misfeasance is sufficient to constitute cause to suspend or remove a municipal board member from office. Nevertheless, it is important to distinguish between the two whenever discussing a public servant's alleged improper acts or omissions.

In order to satisfy the members' due process rights to be heard, to receive reasonable notice of the allegations of misconduct, and to conduct a hearing where such facts and arguments may be presented to the Council, we recommend that the Council:

1. Engage independent counsel for the limited purpose of assembling evidence and conducting the removal proceedings in a prosecutorial role. As City Attorney it would be inappropriate for myself or any member of my firm to also act in the role of a prosecutor at the hearing.
2. Prepare a brief set of specific allegations of improper conduct and provide the members with notice of same so they have an adequate opportunity to be heard at the hearing. For example, if the Council were to find at a workshop that grounds may exist for suspension or removal for misfeasance based upon the Public Code of Ethics for the City of Dunnellon, then the City's final notice to members for the hearing should list all potential grounds, instances, or bases of misfeasance that it will consider at the hearing. The independent counsel engaged by the City could prepare the notice for approval by City Council or assist staff in the notice's preparation. Although not necessary, notice could also be in the form of a proposed resolution.
3. Provide the members with a reasonable opportunity to be heard at the hearing. This would include the right to be represented by counsel, the right to call and cross-examine witnesses, and the right to make argument without interruption in a manner consistent with the Public Code of Ethics.
4. The Council's final decision should be reduced to a resolution and voted on.

It is well-settled in Florida common law that if a public board member is removed, files suit challenging said removal, and prevails, then the member may be entitled to an award of attorneys' fees and costs. By taking the initiative to hire independent counsel to present evidence and prosecute this matter, by providing the members with the full panoply of due process rights, and reducing the Council's final decision to a resolution, the City will be developing the type of record that will allow a reviewing court to get to the merits of the legal issues, whatever they may

be, and guards against a negative outcome based solely on procedure. In short, employing these procedures may result in cost savings if this matter or any part related hereto ends up in litigation.