



**CITY COUNCIL MEETING MINUTES ~ APPROVED  
OCTOBER 8, 2015 AT 7:00 PM**

City Hall ~ 82877 Spruce St., Westlake, OR

These proceedings of the Dunes City Council were recorded and are on file at Dunes City Hall. Upon approval by the City Council, these minutes will be available online at [www.DunesCity.com](http://www.DunesCity.com)

**1. CALL TO ORDER**

Mayor Rebecca Ruede called the October 8<sup>th</sup> meeting of the Dunes City Council to order at 7:00 pm.

**2. ROLL CALL**

Roll Call was taken by City Administrator pro tempore, Jamie Mills.

**Present:** Mayor Rebecca Ruede, Councilor Ken Platt, Councilor Ed Scarberry, Councilor Sheldon Meyer, and Councilor Maurice Sanders.

**Absent and Excused:** Councilor Duke Wells.

**Also Present:** Administrative Assistant Rapunzel Oberholtzer, future Dunes City residents Cindy and Robert Forsythe, and Dunes City residents Bonnie Allen and Carol Sweet.

**3. PLEDGE OF ALLEGIANCE**

All who were present stood for the Pledge of Allegiance.

**4. APPROVAL OF THE AGENDA**

**Councilor Scarberry made a motion to approve the Agenda. Councilor Meyer seconded the motion. The motion passed by unanimous vote.**

**5. CONSENT AGENDA**

**Councilor Scarberry made a motion to approve the Consent Agenda. Councilor Meyer seconded the motion. The motion passed by unanimous vote.**

**6. ANNOUNCEMENTS / CORRESPONDENCE**

Mayor Ruede read aloud the list of announcements from the meeting Agenda.

A. We have many volunteer openings on various Commissions and Committees. Please contact City Hall for information.

- B. The third quarter Budget Committee meeting is scheduled for Wednesday, October 21, 2015, at 3:30 pm in the City Council chambers.

Mayor Ruede also announced that Councilor Meyer's birthday is October 21<sup>st</sup> and spice cake will be served to everyone who wished to stay after the meeting. Mayor Ruede went to announce that she received an invitation from the Siuslaw Watershed Council to attend a community meeting at Florence City Hall on November 2<sup>nd</sup> from 2:00 to 4:00 pm; the attendee(s) will be determined at a later date. She also announced that during the City Council's Special Session on September 22<sup>nd</sup>, City Council President Mills resigned her Council position to take on the role of City Administrator pro tempore. Lastly, Mayor Ruede announced that the Planning Commission would hold a public hearing on October 29<sup>th</sup> beginning at 6:00 pm on Ordinance No. 228.

## 7. CITIZEN INPUT

Mayor Ruede recognized Mr. Robert Forsythe who signed in to provide citizen comments. He explained that his comments were primarily regarding a point of order he wanted to bring to the attention of the Councilors. He went on to note that during past meetings Councilor Sanders recused himself from discussions about the road vacation issue, declaring a personal conflict of interest. Referring to Oregon Revised Statutes (ORS) Chapter 244.020, Mr. Forsythe pointed out that in any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industrial, occupational or other group of some sort, that official has the right for that discussion and vote. He went on to remark that the conflict of interest law is primarily intended so that there is no individual stake in an issue.

Mr. Forsythe remarked that, in his opinion, the ORS definition did not preclude Councilor Sanders from discussion about road issues and, he went on, Councilor Sanders' voice as a Road Commissioner and his knowledge should be heard and he should be able to vote on the issue.

Councilor Sanders thanked Mr. Forsythe for remarking on the matter and went on to note that if road vacations occur he would stand to gain land that has value. He emphasized that as an elected public official, he wanted to make sure there was no appearance of impropriety. He further noted that as Chairman of the Road Commission he would gladly answer Council's questions on the issue. Councilor Sanders reiterated that since he could potentially gain from a road vacation, he would prefer to remain silent during discussions. Mr. Forsythe noted that since there are no motions or votes before the Council, Councilor Sanders is not prohibited by law from participating in discussion. Councilor Sanders noted again that he would answer questions from the audience if asked.

Mayor Ruede recognized Ms. Bonnie Allen who was also signed in to give comments. Ms. Allen commended the Council for their work on many issues related to water quality. Referencing the meeting's Unfinished/Old Business Agenda item 10(D) (Shared Domestic Water Rights) and related Ordinances, Ms. Allen asked that during discussion the Council clarify

how the appeal of the various Ordinances affected the perfection of Dunes City's water rights. Referring to the Mayor's announcement about the Planning Commission's public hearing on proposed Ordinance No. 228, Ms. Allen requested that everyone who provided written or oral comments during hearings on the draft Ordinance resubmit them to the City for consideration during this first of the evidentiary hearings.

## 8. NEW BUSINESS

### A. Separation Agreement

Mayor Ruede adjourned the Regular Session of the Dunes City Council to go into Executive Session, held pursuant to ORS 192.660(2)(f), to consider information or records that are exempt by law from public inspection at 7:12 pm.

Mayor Ruede called the Dunes City Council Regular Session back to order at 7:44 pm.

**Mayor Ruede requested a motion to authorize her to enter into a separation agreement with Mr. Hilden. Councilor Sanders made the motion requested. Councilor Meyer seconded the motion. The motion passed by unanimous vote.**

Mayor Ruede reminded everyone that former Council President Jamie Mills agreed to step down as a City Councilor and assume the role of interim City Administrator.

### B. Application for Appointment to Water Quality Committee

Mayor Ruede briefly reviewed the Application for Appointive Office submitted by Dunes City resident, Ms. Carol Sweet. **She then requested a motion to appoint Ms. Sweet to the Water Quality Committee. Councilor Meyer made the motion. Councilor Scarberry seconded the motion.**

Interim City Administrator Mills pointed out that the appointment would be for a term expiring on January 11, 2018.

**The motion passed by unanimous vote.** Mayor Ruede welcomed Ms. Sweet to the Committee.

### C. Election and Appointment of Council President

Mayor Ruede explained that with the resignation of Council President Mills last month, the City Council needs to fill that position on the Council. She asked for a volunteer and Councilor Sanders agreed to step in.

**Councilor Meyer made a motion to appoint Councilor Sanders as Council President. Councilor Scarberry seconded the motion. The motion passed by unanimous vote.**

#### D. Engineering Report Re: Water Usage and Measurement

City Administrator Mills reported that the Councilors' meeting packets contained information about two types of measuring systems provided by Stuntzner Engineering—one a high end digital system and the other a moderately priced staff gauge system. She explained that the City is required by the City's state water permits to provide flow measurements for the point where Woahink Creek water leaves Woahink Lake and the point where Woahink Creek enters Siltcoos Lake. The City would need a tool for taking the measurements and a way for Staff to get the measurements. She went on to note that City Staff has not yet evaluated the Stutzner report and options, but it might be possible for the City to mount its lake view web cameras at locations where the cameras could be turned by remote control to read staff gauges.

Mayor Ruede noted that Stuntzner Engineering provided detailed information about the options available. City Administrator Mills noted that specific recommendations were not provided but she would work with Stuntzner to determine a cost effective, easy-to-use system and report back to the Council.

Councilor Meyer expressed support for the rotating camera idea as the most cost effective and the one with the least impact on Staff time for collecting the readings. Councilor Sanders asked how much budget was available for the project and City Administrator Mills explained that more budget information would be available at the next Budget Committee meeting. Mayor Ruede suggested looking into the possibility of grant funding for the project.

#### E. Road Commission Issues/Concerns

City Administrator Mills explained that a major concern for the Road Commission is that one of the long-time Road Commissioners may no longer reside within Dunes City limits, which is a requirement of City Code. Discussing the matter with the City Attorney, City Administrator Mills was advised that one option for keeping the individual on the Commission would be to draft an ordinance that would allow the Council to appoint someone with unique knowledge, skills or equipment to serve on a Committee or Commission even though the person is not a legal resident of Dunes City.

City Administrator Mills referred to the copy of a draft ordinance included in the Councilors' packets for consideration, noting that the ordinance could be placed on the Agenda for discussion in the future. Mayor Ruede noted that the ordinance could benefit Dunes City by allowing the City to draw on expertise from residents in the surrounding areas when needed. Councilor Sanders expressed support for the ordinance idea, noting that it seemed like an intelligent way to allow interested parties to volunteer and he would like to see it on the Agenda as an emergency ordinance. Mayor Ruede remarked that passing an ordinance requires some extra Staff time and time for Councilors to review and decide upon language but, in this case, the ordinance would be helpful in solving an immediate problem in the community. She went on to note that another Council in the future could repeal the ordinance if that Council believed it was no longer needed.

Mayor Ruede asked for the ordinance to be listed on the Agenda for the November meeting, suggested that Councilors review the prepared draft prior to that meeting and thanked City Administrator Mills for taking the time to create it.

#### F. Portage at Siltcoos Dam

City Administrator Mills explained that the City received notification that the Division of State Land Public Recreation Facility License for the portage on the Siltcoos Dam expired in May of this year. She referred to the report she provided to Councilors showing that extending the current license would cost \$375.00 and outlining the cost and processes that would be required by various federal and state agencies for removing the portage and restoring the area.

In discussion, Mayor Ruede pointed out that the portage has been an issue off and on for some time and the City has discussed divesting itself from responsibility for maintaining it. She went on to note that the recreational value to the area is significant and beneficial to the community. Councilor Scarberry pointed out that while the portage is not Dunes City property its value is significant to communities around Dunes City as well, but it might be a good idea to find another agency to take over management.

During further discussion, it was generally agreed that although the portage is beneficial to recreation opportunities in the area, it is not Dunes City property and the City should not continue to maintain it and pay the license fee. It was further agreed that City Administrator Mills would investigate options for the City, possibly meeting with other agencies that might have an interest in maintaining it, or determining how much it would cost to remove the portage, restore the area and walk away from the license.

### 9. UNFINISHED/OLD BUSINESS

#### A. Scotch Broom Flyer

Councilor Meyer explained that he followed up on prior Council discussions regarding the possible use of herbicides to eradicate Scotch Broom. Referencing the OSU Brooms flyer that was included in Council meeting packets, he pointed out that Broom plants can produce 15,000 seeds per year which makes the plant difficult to control. He went on to note that although the USDA's *Science Findings* publication from August 2015 reports that herbicides can be an effective control of the spread of Brooms, after he researched some recommended herbicides he found that their specifications state they should not be used around water. In light of his findings on herbicides, Councilor Meyer recommended not using them but, instead, come up with a multi-faceted weed management plan used over a prolonged period of time. He suggested that Councilors read the brochures he provided and discuss a long-term, multi-faceted plan at a future meeting.

Mayor Ruede offered to provide Councilor Meyer with the name of an individual in Florence who works on removing Scotch Broom for Port property. Councilor Meyer suggested that, eventually, the City might host an annual “Scotch Broom Removal Day” similar to last year’s day devoted to picking up trash along City and County roadways.

#### B. Siuslaw School District Construction Excise Tax

Mayor Ruede reported that she had spoken with the Mayor and the City Manager in Florence about this issue. Although both were amenable to partnering with Dunes City in approaching the Siuslaw School District to increase the amount of revenue from the CET that the cities keep, they could not make an immediate commitment to a timeframe.

Councilor Scarberry suggested that Dunes City not wait for Florence to join in a joint approach. Instead, he recommended that Dunes City write a letter to the School District requesting a new Intergovernmental Agreement. Mayor Ruede suggested that Councilor Scarberry work with City Administrator Mills on a letter. Councilor Scarberry agreed to do so.

#### C. Road Vacations

Councilor Sanders recused himself from the discussion and left the dais.

City Administrator Mills referred to a copy of her report included in the Councilors’ meeting packets. She reported that she had spoken to the City’s Attorney who indicated that the liability for taking the roads would be the same liability the City is currently subject to for roadways within the City limits, brushing or other maintenance for example. She went on to note that in order to get a true assessment of liabilities to the City, the City may wish to do a road-by-road inventory of buildings on the roads, condition of the roads, etc. She also noted that the County’s vacation of the land would increase the amount of land in Dunes City for tax purposes. City Administrator Mills also reported that by taking the roads from the County, the City then has jurisdiction over them, such as whether or not they are paved, or whether or not they are vacated by the City to adjoining property owners. She further noted that the City Attorney also informed her that the City would be able to recoup all of its costs and expenses associated with a property owner’s request to vacate the land, and that the City could also place a condition on any vacation that would allow a utility easement on the property, if necessary.

During the discussion that followed, Councilors voiced several concerns. Among them, cost for making new maps (if necessary), cost to City for surveying and recording, cost to City for maintaining any new City roads created by the County vacation, and whether or not the City would need to build roads. It was determined that there is no cost to the City for mapping, surveying and recording. Councilor Sanders, speaking as Road Commission Chairman pointed out that there are no plans for the City to build new roads and no funding to do so. He also noted that any privately owned roads are maintained by the owners, not the City.

Following discussion, it was generally agreed that the City would benefit from having jurisdiction and control over the land currently under jurisdiction of the County and that there would not be any additional costs to the City for taking the land from the County. It was also noted that any owners of property adjoining the mapped roads would pay for the cost to purchase the land. Mayor Ruede suggested that Councilors come to a decision.

**Councilor Meyer made a motion to concur with the County's offer to dedicate the roads to Dunes City provided that the County provide the City with legal descriptions of every road and pay all costs associated with the transfer of the property. Councilor Scarberry seconded the motion. The motion passed by unanimous vote.**

D. Shared Domestic Water Right – Appeal Ordinance Nos. 165 & 192 and Confirm Appeal of Ordinance No. 185

City Administrator Mills referred Councilors to several documents included in their meeting packets, including one that illustrated the complicated history of revisions and the proposed changes recommended for the Shared Domestic Water Right Program and one that described in detail the history of various ordinances and resolutions regarding Shared Domestic Water. She also pointed out the draft of a proposed ordinance intended to ensure that water usage is monitored and reported properly, ensures that City property owners using water from Woahink Lake are permitted, provides for residents to pay administrative fees, and provides for City enforcement. City Administrator Mills also explained that the proposed ordinance would ensure that City Code authorizes the City to track which residents are in the Water Right Program, collect the administrative fees, access water meters, and get the required meter readings—much of which is required by the Dunes City permit for diversion of water from Woahink Lake and for certification of the permit.

Mayor Ruede clarified that most of the previous ordinances and resolutions created to administer the Water Right Program were never codified and thanked City Administrator Mills for providing such comprehensive background information.

Mayor Ruede directed Councilors' attention to page one of the draft ordinance and the definition for "domestic use" which she read aloud, "Water used for all domestic purposes including, but not limited to, human and pet consumption, bathing, food preparation, and personal and household hygiene, and for the irrigation of not more than one-half (1/2) acre of landscaping. Domestic use does not include motor vehicle washing." City Administrator Mills explained that the definition is from the Oregon Administrative Rules' definition for domestic use expanded which is domestic use plus one-half acre of irrigation. She went on to note that she spoke with the state Water Master about the motor vehicle washing portion of the definition and learned that vehicle washing is not precluded under OARs. She noted that latter part of the definition was added in response to suggestions made by members of the public during Water Quality Committee meetings on early ordinance language. Mayor Ruede suggested deleting the prohibition on motor vehicle washing. There were no objections.

Councilor Meyer requested clarification of paragraph D (Water Distribution Companies) on page three of the document showing the various iterations of language on the Water Right Program, noting that (according to the terms of the City's Permit) the City can not sell water. City Administrator Mills confirmed that was the case and pointed out that a water distribution company delivering water for domestic use may charge for the delivery service.

Referring to Section 51.110 (Use without a Permit), paragraph A, on page three of the draft ordinance, Councilor Sanders read, "A penalty of \$100 per year, from and after June 1, 2007, is assessed against any property owner who has been drawing water from Woahink Lake without a permit to use Dunes City's Shared Domestic Water Right," and asked whether that provision was enforceable under City Code. City Administrator Mills explained that the City's Chapter 36 (Code Enforcement) provided the processes required for the City to levy a fine as well as processes for residents to appeal. She also explained that a penalty levied by the State could be much higher.

Referring to paragraph B of Section 51.110, Councilor Sanders requested additional explanation of the intent and how reports of suspected illegal use of water from the lake would be filed. City Administrator Mills explained that the reporting process for residents would be the same as filing a complaint at City Hall. She also explained that the penalty for illegally withdrawing water from the lake have compounded since 2007.

There was some discussion about whether or not the penalty was high enough, how the City would prove that a user has been withdrawing water since 2007, and whether or not residents could be penalized from 2007 when there is no authoritative ordinance currently in effect. Councilor Sanders suggested increasing the penalty to \$1,000 as a deterrent and changing the 2007 date. City Administrator Mills suggested making the corrections discussed during the meeting and presenting a revised ordinance in November's meeting.

#### E. Revenue Suggestions

Councilor Platt suggested a fee for filing complaints. If, when investigated, the complaint is found to be justified, the fee would be returned to the complainant. The idea, he explained would be to try to prevent false or frivolous complaints. City Administrator Mills pointed out that at one time the Council considered this type of fee, but it was never adopted.

There was some discussion about whether a filing fee would deter legitimate complaints. City Administrator Mills explained that the fee suggestion was prompted by the fact that the City has investigated one complaint issue four different times, each time finding no Code infractions. She went on to note that the problem might be the City does not have a process that allows the Code Enforcement Official to appeal the decision to the City Council when the Code Enforcement Official informs the complainant that the complaint is not valid. She presented Councilors with a copy of a draft ordinance that could correct the situation. Mayor Ruede suggested that Councilors review the draft prior to the next meeting and requested that discussion of the draft be included on November Agenda.



## F. Police Car

City Administrator Mills explained that the reason for this subject on the Agenda was to give the Council an opportunity to decide whether or not the City wants the car before the City spends money on removing insignias and lights.

Mayor Ruede suggested that the vehicle could be used by City Officials, such as the Code Enforcement Official, while on City business. Following a discussion about how the vehicle could be used, Mayor Ruede suggested that City Administrator Mills come up with ideas for signage designating the vehicle for Dunes City Official Business and proceed to have the existing signage removed and replaced.

Councilor Scarberry pointed out that there are several questions about the vehicle, number of miles on it, how old it is, what kind of mechanical issues it might have that should have been addressed before the City accepted it. He expressed concern about the cost to insure and maintain the vehicle versus the cost to reimburse City Officials for using their personal vehicles for City business. He went on to say that he did not think the City should take on the added expense of having a City vehicle.

Mayor Ruede suggested tabling further discussion until November's meeting. Councilor Sanders asked if there was a way to determine approximately how much mileage reimbursement is paid to City Staff and others during the year, and also noted that Staff might not want to use their personal vehicles for City business.

## 10. REPORTS

Mayor's Report: Mayor Ruede reported that the month had been busy but she did not have a report to file.

Communication and Education Committee Report: City Administrator Mills had no report, but reminded Councilors that the Council needed to appoint a new chairperson for the Communication and Education Committee.

Ordinance Review Committee Report: City Administrator Mills had no report, but noted that the Council needed to appoint a new chairperson for the Ordinance Review Committee.

Community Center Report: City Administrator Mills reported that new paper towel and soap dispensers were installed in the kitchen and the bathrooms, the kiosk street light bulb was replaced, electrical updates to meet safety requirements were done, and the City did not receive any bids for residing the building. Regarding the residing bids, it was suggested that the City republish the request for quotes and mail the RFQ to potential contractors.

Conservation Committee Report: Councilor Platt had no news to report.

Parks and Recreation Committee Report: Councilor Scarberry reported that there had been a quarterly meeting; no new business was discussed but he provided an update to the Committee members on the work that was done at the Overlook. The next meeting is scheduled for December.

Road Commission Report: Councilor Sanders reported that there was no Road Commission meeting last month and there would not be one in October. He noted that the Commission does not have a Vice Chairman due to Commissioner Harris' resignation. He also noted that the bill for road work on Russell Drive and Rio Drive had been submitted to the City at just under \$52,000, about \$4,000 less than anticipated and the City's Director of Roads, Gary Baker, resigned.

Water Quality Committee Report: Councilor Meyer provided a copy of the water quality report for the current month in the Councilors' meeting packets. He reported that test results remain good.

Emergency Services Report: City Administrator Mills reported that she attended the September WLEOG meeting. A complete report on the meeting was included in the Councilors' packets. She noted that Rapunzel and Mayor Ruede attended ALICE training and that she and Renee Green attended a Hazard Mitigation Plan meeting. Dunes City is one of a few cities in Lane County that has a Hazard Mitigation Plan, which may provide opportunities for grant funding.

City Administrator/Planning Report: Mayor Ruede pointed out that the City Administrator's report was also included in the Councilors' meeting packets. She reported that she is working with Blair Bronson of Best of the West Events on the accounting for the 2015 Oregon Dunes Triathlon and Duathlon as well as the event packets for next year's event, which will be held the first weekend in May. She also reported that the mortar shells that were recovered from the City Hall parking area will be delivered to the Florence Military Museum with a formal donation ceremony from Dunes City to the Museum sometime in the future. Other news reported by City Administrator Mills: the Quitclaim Deed for Lot 700 has been signed and delivered to Lane County; ODOT has informed the City Administrator that the City will not need a new permit to redo the City's sign if it is made smaller or kept about the same size, but the City may need a new permit if the size of the sign is increased.

## **11. FOR THE GOOD OF THE ORDER**

Councilor Sanders asked what the City planned to do about filling the open position on the City Council, and what plans there are to permanently fill the open City Administrator position. He thanked Mayor Ruede for all the extra work she has done for the City during the past month.

Councilor Meyer and Councilor Scarberry agreed with Councilor Sanders' kudos to Mayor Ruede.

Mayor Ruede thanked the Councilors for their comments and noted that it is always difficult when an employee leaves. She thanked former City Administrator/Recorder Fred Hilden for his service to the City.

## **12. ADJOURNMENT**

**Mayor Ruede requested a motion for adjournment. Councilor Scarberry made the motion to adjourn. There was no second and no vote taken.**

Mayor Ruede adjourned the meeting at 9:10 pm.

**APPROVED BY THE DUNES CITY COUNCIL ON THE 12<sup>h</sup> DAY OF NOVEMBER 2015.**

[Signed copy available at City Hall]

Rebecca Ruede, Mayor

ATTEST:

[Signed copy available at City Hall]

Jamie Mills, City Administrator Pro Tempore