



**CITY COUNCIL MEETING MINUTES ~ DRAFT
NOVEMBER 12, 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

1. CALL TO ORDER

Mayor Rebecca Ruede called the November 12th meeting of the Dunes City Council to order at 7:00 pm.

2. ROLL CALL

Roll Call was taken by Interim City Administrator, Jamie Mills.

Present: Mayor Rebecca Ruede, Council President Maurice Sanders, Councilor Duke Wells, Councilor Sheldon Meyer, Councilor Ed Scarberry, and Councilor Ken Platt.

Also Present: Interim City Administrator Jamie Mills, Administrative Assistant Rapunzel Oberholtzer, Dr. and Mrs. Peter Howison, and several other citizens.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

Councilor Meyer made a motion to approve the Agenda. Council President Sanders 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 more information.

- B. Birthday wishes to Gary Baker, Interim City Administrator Jamie Mills and Council President Maurice Sanders.
- C. The Mayor will be holding a Volunteer Recognition Pot Luck Dinner on December 10th from 2:00 to 4:00 pm.

Mayor Ruede invited everyone to stay for refreshments after the meeting and invited Dunes City residents to attend the pot luck on December 10th.

7. CITIZEN INPUT

Mayor Ruede recognized Dr. Peter Howison who signed in to provide citizen comments. Dr. Howison thanked the Council for preparing a Resolution officially continuing the Sister City relationship with Dunes, France, noting that it was much appreciated by the residents of Dunes. He explained that his recent trip to Dunes was his third and it was a privilege to be able to visit there representing Dunes City. Dr. Howison presented Councilors with calendars and DVDs showing the area around Dunes.

8. EXECUTIVE SESSION

Mayor Ruede adjourned the meeting at 7:07 pm to go into Executive Session held pursuant to ORS 192.660(2)(e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions and reconvened the regular session at 7:27 pm.

9. NEW BUSINESS

A. Real Property Transaction Negotiations

Council President Sanders made a motion to direct the City Administrator to contact three local attorneys to bid for contract services for initiating an adverse possession claim against the owners of the property directly east of and adjoining Dunes City's City Hall where the emergency generator is to be located. Councilor Wells seconded the motion. The motion passed by unanimous vote. (B 00:02:10)

City Administrator Mills requested direction from the Council regarding access to the weir. She explained that the City has been working on this issue for several years hoping to get access to the weir via land rather than from the water.

Council President Sanders made a motion to pursue a water access right for the weir on Woahink Lake. Councilor Meyer seconded the motion. The motion passed by unanimous vote. (B 00:03:35)

B. Dunes City Sign Update and Brochure Order

City Administrator Mills reported that while she was reviewing the year's financial documents in preparation for the annual audit review she discovered two checks that had been

written for services that were concerning to her. Both checks were payable to Fred Hilden's business (Lake's Edge LLC), one for updating the "Stay and Play" brochure and the other for work on the City sign. She explained that neither expenditure was authorized by the Council and the work on both projects has not been done. She went on to explain that the City Attorney advised issuing contracts for Mr. Hilden to do the work and also, as a matter involving public trust and public funds, recommended bringing the matter before the Council in an open meeting for discussion. (B 00:05:49)

City Administrator Mills further explained that under the City's rules of procedure and its personnel handbook, the City Administrator is not allowed to make a decision on anything having a value of more than \$250 and, further, according to the City Charter no one is allowed to make a decision for an expenditure of more than \$2,000 without approval of the City Council.

Councilor Scarberry expressed concern about contracting for both projects due to the fact that the Council did not discuss the projects or authorize the expenditures before the checks were written. (B 00:08:00) Councilor Wells also expressed concern about the fact that the brochures were intended for last year's Oregon Dunes Triathlon and Duathlon but were not delivered. Council President Sanders asked if Mr. Hilden had been questioned about these issues. City Administrator Mills explained that she spoke to Mr. Hilden when she discovered that the checks were written and was told by him that he intended to finish the work and that the Council had approved the projects.

Councilor Scarberry asked if it would be appropriate to discuss the issue further in Executive Session. Councilor Wells suggested that City Administrator Mills complete her investigation of the issue prior to more discussion. City Administrator Mills reported that she contacted Mr. Hilden via email requesting that he take no action on the projects until further notice.

After discussion, it was generally agreed that City Administrator Mills would complete her investigation and provide details to the Councilors. Once the facts are presented to Councilors, an Executive Session could be scheduled for additional consultation with the City Attorney. (B 00:12:32)

C. Portage at Siltcoos Dam

City Administrator Mills reported that she contacted a company about removing the portage and the pier and was told that the company could remove the portage but not the pier and companies that would be able to remove the pier could charge as much as \$25,000. The company that could remove the portage and restore the bank of the river estimated the cost at about \$8,700. City Administrator Mills also reported that she was still looking for entities that would be willing to take over maintenance and responsibility of the portage.

During discussion, Councilor Scarberry pointed out that navigating the upper portion of the river at low tide is difficult because of submerged trees and trees that have fallen across the river. There was some discussion about what would happen if the City did not

renew its permit to operate the portage. Mayor Ruede suggested reviewing the original contract with the state before coming to a decision. City Administrator Mills noted that the permit from the state allowed the City to put the portage in place and if the City does not renew the permit the state could require the City to remove the portage and restore the shore area. It was generally agreed that more information was needed. (B 00:20:24)

D. Appointment of Replacement Code Enforcement Officer

Mayor Ruede suggested that City Staff assume the role of Code Enforcement Officer and in the event that anyone disagrees with a Staff/Code Enforcement Officer decision, the decision could be appealed to the City Council. Council President Sanders pointed out that City Code assigns the task of Code Enforcement Officer to the City Administrator or his/her designee which means that City Administrator Mills would be the Code Enforcement Officer or could appoint someone else to the position. (B 00:21:15) It was agreed that City Administrator Mills would assume the role of Code Enforcement Officer.

E. Resolution Series 2, No. 5 (11-12-2015) Re: Lien Search Fees

City Administrator Mills explained that the City has charged \$10 for lien searches since 1979 but the actual cost to the City for Staff time, on average, is about \$28. City Staff's recommendation is to increase the fee to \$25. (B 00:24:14)

Mayor Ruede opened the discussion to public comment at 7:50 pm. No one came forward to comment and Mayor Ruede closed public comment at 7:51 pm.

Council President Sanders made a motion to adopt Resolution Series 2015, No. 5 as presented. Councilor Wells seconded the motion. The motion passed with five votes in favor, none against, no abstentions, no absentees, and one vacancy on the Council. (B 00:26:32)

F. Contract for Consultant Services Re: Acting City Administrator/Recorder

Mayor Ruede directed the Councilors' attention to the contract and job description for Acting City Administrator/Recorder that was included in Councilors' meeting packets. City Administrator Mills explained that the purpose of the contract is to memorialize the agreement between her and the City to act as City Administrator/Recorder until such time as the Council decides otherwise and to pay her an hourly wage for doing so. She noted that as an independent contractor providing services to the City, she would be responsible for paying taxes on the income and would receive no benefits paid for by the City—which should save the City money.

Council President Sanders made a motion to direct the Mayor and the Council President to execute the employment contract with Ms. Mills as the Acting City Administrator/Recorder. Councilor Scarberry seconded the motion. The motion passed by unanimous vote.

G. Open and Award Bid for Repair of Dry Rot on City Hall

Councilor Wells reported that the City received one bid for the City Hall repair project from a Reedsport contractor. He noted that the bid came in at \$5,800 but could cost more if additional damage to the building is found after the siding is removed. City Administrator/Recorder Mills explained that the Request for Proposal (RFP) was published twice and this was the only bid received.

There was a discussion about budget for the work with City Administrator/Recorder Mills reporting that the budget for this year allocated about \$10,000 for repairs to City Hall. Council President Sanders asked City Administrator/Recorder Mills to confirm the amount of money available for repair.

Mayor Ruede called for a break in the meeting at 7:58 pm and reconvened at 8:02 pm.

City Administrator/Recorder Mills explained that this year's budget, over all funds, allocated \$14,000 for repairs to City Hall and acquisition of the emergency generator. She went on to explain that although the City received a \$15,000 grant for the generator installation, the City would have to match about \$7,500 of that, which leaves about \$7,500 for building repairs. (B 00:34:08)

There was discussion and concern about whether the City had the money to go forward with the repairs. Council President Sanders requested that further discussion be tabled until City Administrator/Recorder Mills could provide updated budget detail. Mayor Ruede agreed to table the discussion. City Administrator/Recorder Mills agreed to try to have the year-to-date budget numbers available for the December meeting. (B 00:35:50)

H. 2016 Oregon Dunes Triathlon/Duathlon

Referring to the 2015 Oregon Dunes Triathlon/Duathlon Statement of Account that was included in Councilors' meeting packets, City Administrator/Recorder Mills explained that last year's event resulted in a financial loss to the City primarily due to the fact that the City is paid only for sponsorships, not registration fees. (B 00:37:40) She went on to explain that the old contract with Best in the West Events stipulates that the sponsorship fees are split between the City and Best in the West Events. A new contract allowing the City to keep all of its sponsorship fees and Best in the West Events to keep fees for sponsors it acquires has not been finalized. The financial loss indicates that the City needs to step up its efforts to secure sponsorships. She reported that she contacted Three Rivers Casino about a sponsorship—it is interested but has not yet made a commitment.

There was some discussion about sponsorships with Councilors remarking that hosting the event came about as a revenue generating project. It was generally agreed that there should be more marketing in the greater Florence area where businesses profit the most from the event, and those efforts should be taking place now. City Administrator/Recorder Mills agreed to try to have a draft contract with Best in the West Events available for the Council meeting in December. (B 00:46:45)

10. PUBLIC HEARINGS

- A. Ordinance No. 229 Amending Chapter 32
Re: Membership Qualifications of Road Commission

Mayor Ruede stated that an ordinance requires two readings before it can be enacted, and then noted that Section 34(3) of the City Charter provides that both readings may be read by title only if no Council member present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each Council member and all of the requirements for posting and advertisement have been met. Mayor Ruede asked City Administrator/Recorder Mills whether all of the requirements for posting and advertising had been met. They had. (B 00:47:26)

Mayor Ruede asked if any Councilor wished to have the ordinance read in full. None did.

Council President Sanders made a motion to read Ordinance No. 229 by title only. Councilor Scarberry seconded the motion. There was no vote taken.

Mayor Ruede read Ordinance No. 229 by title only, “An ordinance amending Chapter 32 of the Dunes City Code of Ordinances regarding qualifications for appointment to the Dunes City Road Commission.”

Mayor Ruede opened the meeting to public comment on the ordinance at 8:17 pm. No one came forward to comment and Mayor Ruede closed the public comment portion of the meeting at 8:18 pm.

Council President Sanders made a motion to read Ordinance No. 229 by title only. Councilor Scarberry seconded the motion. The motion passed by unanimous vote.

Mayor Ruede read Ordinance No. 229 by title only for the second time, “An ordinance amending Chapter 32 of the Dunes City Code of Ordinances regarding qualifications for appointment to the Dunes City Road Commission.”

Council President Sanders made a motion to accept the wording of Ordinance No. 229 as presented and adopt and place for final passage Ordinance No. 229 on this twelfth day of November. Councilor Scarberry seconded the motion. (B 00:51:06)

City Administrator/Recorder Mills pointed out that at the time Council President Sanders requested this ordinance to be drafted he also requested that it be considered an emergency ordinance, but the ordinance presented provides for a 30-day effective date. Council President Sanders remarked that the 30-day effective date was satisfactory in this instance. He went on to explain that the reason for the ordinance was specifically to provide for allowing a long-term Road Commissioner to continue to serve despite the fact that he moved from a house within Dunes City limits to one that was determined to be outside of City limits. In addition, the ordinance would allow the Road Commission to appoint future

Commissioners who might not live in the City but who have unique knowledge, experience, skills and/or equipment that would be beneficial to the City. (B 00:52:50) Councilors generally agreed that the ordinance provided much needed flexibility for appointing Road Commissioners.

There being no further discussion, Mayor Ruede called for a roll call vote.

The motion passed unanimously with Council President Sanders and Councilors Meyer, Wells, Scarberry, and Platt voting in favor. There were no votes against the motion, no abstentions, no absences, and one vacancy on the Council. (B 00:54:40)

B. Ordinance No. 230 Amending Chapter 36
Re: Appeal of Code Enforcement Officer Decision of Validity

Mayor Ruede stated that an ordinance requires two readings before it can be enacted, and then noted that Section 34(3) of the City Charter provides that both readings may be read by title only if no Council member present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each Council member and all of the requirements for posting and advertisement have been met. Mayor Ruede asked City Administrator/Recorder Mills whether all of the requirements for posting and advertising had been met. They had.

Mayor Ruede asked if any Councilor wished to have the ordinance read in full. None did.

Councilor Scarberry made a motion to read Ordinance No. 230 by title only. Councilor Meyer seconded the motion. The motion passed by unanimous vote.

Mayor Ruede read Ordinance No. 230 for the first time by title only, “An ordinance amending Chapter 36 of the Dunes City Code of Ordinances regarding appeal of decisions made by the City Code Enforcement Officer.”

Mayor Ruede opened the meeting to public comment on the ordinance at 8:26 pm. No one came forward to comment and Mayor Ruede closed the public comment portion of the meeting at 8:27 pm.

Councilor Meyer made a motion to read Ordinance No. 230 for the second time by title only. Councilor Wells seconded the motion. The motion passed by unanimous vote.

Mayor Ruede read Ordinance No. 230 for the second time by title only, “An ordinance amending Chapter 36 of the Dunes City Code of Ordinances regarding appeal of decisions made by the City Code Enforcement Officer.” (B 00:58:46)

Councilor Meyer made a motion to accept the wording of Ordinance No. 230 as presented and adopt and place for final passage Ordinance No. 230. Councilor Wells seconded the motion.

During discussion, Council President Sanders explained that he could not support the proposed ordinance because it legislates a process for appealing an administrative decision by City Staff. In his opinion, he went on, if there is a violation of City Code it is dealt with by City Staff/Code Enforcement Officer and that should be the end of the matter.

(B 01:00:54)

City Administrator/Recorder Mills explained that the ordinance was drafted as a possible resolution to a situation in which a complaint was investigated by Staff and/or the Code Enforcement Officer several times and found each time to be invalid with no Code violation taking place. In one specific instance a complainant appeared before the Planning Commission reporting to Commissioners that the City's findings were wrong. She went on to say that the ordinance offers a way for an unsatisfied complainant to appeal Staff's findings and for the City to recoup some of the costs associated with investigating the same complaint multiple times. (B 01:02:35)

During discussion, Council President Sanders noted that any citizen can complain about anything, but if the complaint is determined by City Staff to be unfounded there should not be any further time expended on the matter by Staff. Councilor Meyer pointed out that if the appeal process described in the proposed ordinance had been in place, there would not have been multiple investigations of the same complaint and, further, if the complainant is not satisfied with Staff's finding, the final recourse should be an appeal to the City Council to make sure the Code Enforcement Officer's determination is correct. (B 01:04:25) Mayor Ruede pointed out that a Code Enforcement Officer could have a personal bias in making a finding and an appeal process would allow the City Council to review any such allegation. Council President Sanders noted that the Council, as a body, might not have the expertise to determine whether or not City Code has been violated.

Mayor Ruede requested a roll call vote on the motion. Council President Sanders, and Councilors Wells and Scarberry voted against the motion. Councilors Meyer and Platt voted in favor of the motion. The motion to adopt Ordinance No. 230 failed with a vote of three against and two in favor. (B 01:08:50) There were no abstentions and no absences. There is one vacancy on the Council.

11. UNFINISHED/OLD BUSINESS

A. Police Car

City Administrator/Recorder Mills reported that the vehicle is a 2005 four-door Ford Crown Victoria with 147,460 miles on it, a Kelley Blue Book value of about \$1,655 and a dead battery. She went on to report that, according to last year's figures, the City paid \$459.18 in mileage reimbursement between July 1, 2014, and June 30, 2015. She also reported that the vehicle would need thorough detailing, inside and out, before it could be placed into service.

There was some discussion about what to do with the vehicle. City Administrator/Recorder Mills did not have a recommendation and remarked that she did not see a

need for it. Councilor Scarberry noted that with mileage reimbursement costs at just \$460 a year, the City would spend more than that for insurance, maintenance, fuel, etc. His recommendation was to sell the vehicle. It was generally agreed to remove the signage and lights and sell it.

Councilor Scarberry made a motion to direct the City Administrator to dispose of the police car donated by the City of Florence. Councilor Wells seconded the motion. The motion passed by unanimous vote. (B 01:14:55)

Council President requested to be excused from further discussions due to personal commitments. He was excused by Mayor Ruede and left the meeting at 8:45 pm.

B. Comprehensive Plan Update

City Administrator/Recorder Mills referred Councilors to documents included in their meeting packets, including a draft Scope of Work and a draft Engagement Agreement, prepared by consultant Sandra Belson. She suggested that since the documents were lengthy, the Comprehensive Plan Update project was complex, and budget allocations were not yet clear, further discussion of the documents and the project should be tabled temporarily.

Mayor Ruede agreed to table further discussion until January or so. (B 01:15:55) Councilor Meyer asked if the City had set a ceiling on the cost and City Administrator/Recorder Mills agreed to look into it.

12. REPORTS

Mayor's Report: Mayor Ruede thanked former Council President Mills for taking on the interim City Administrator position. She reported that a weather cam has been placed on Woahink Lake and the link to it is available from the City's website; a weather cam has also been placed at Darlings Resort on Siltcoos and is accessible through the City website and the Darlings website. Mayor Ruede asked City Administrator/Recorder Mills to forward special thanks to Administrative Assistant Linda Stevens for all of her dedication to this project which, she noted, has been among the City Council's stated goals for some time. (B 01:19:30)

Communication and Education Committee Report: There was no report, the Council needs to appoint a new Chairman of the Committee.

Ordinance Review Committee Report: There was no report, the Council needs to appoint a new Chairman of the Committee.

Community Center Report: Councilor Wells reported a bid for repairing the siding was received but work could not begin until the budget allocation for repair has been determined. He also noted that weeds need to be cut outside City Hall.

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

Parks and Recreation Committee Report: Councilor Scarberry reported that the next quarterly meeting is scheduled for December 17 at 3:00 pm.

Road Commission Report: There was no report.

Water Quality Committee Report: Councilor Meyer provided a water clarity results report in the Councilors' meeting packets. He reported that he researched water clarity readings at Locator Code WA-1 on Woahink Lake from May 2015 back to June 1990. He pointed out that the results show, overall, good quality clarity in Woahink Lake.

Emergency Services Report: City Administrator/Recorder Mills reported that she attended the October WLEOG meeting, which included an informative power point presentation by Sergeant Michael Copenhaver of the Clackamas County Sheriff's Office on the active shooter incident at the mall. Law enforcement agencies learned valuable information from that incident and have incorporated it into ALICE training. A complete report on the meeting was included in the Councilors' packets. She noted that comments on the draft EOP were due the end of October and feedback should be available shortly. (B 01:25:55)

City Administrator/Planning Report: City Administrator/Recorder Mills reported that permit activity dropped off in October compared to September. She also reported that the Planning Commission held a meeting on October 29 that included a well-attended public hearing on the proposed septic ordinance (Ordinance No. 228); the hearing was continued to November 19. She is waiting to hear back from the School District about amending the IGA to 4% and has not received confirmation from Lane County about the proposed transfer of Siltcoos Heights roadways or the deed conveying title to Lot 700. She also reported that another city is working with LCOG attorneys on a franchise agreement with Charter; when finished that agreement could be used as a model for Dunes City's franchise agreement with Charter.

13. FOR THE GOOD OF THE ORDER

City Administrator/Recorder Mills reminded everyone that the budget is in the works; if Committees have funding requests they should send them to her so she can include them in the budget report.

Councilor Wells thanked City Staff for staying with the City during the recent Staff transition period. Councilor Platt and Councilor Scarberry agreed, noting that some of the projects that Staff has recently completed have been in the works for some time.

Mayor Ruede announced that she had been approached by Florence Mayor Joe Henry about the possibility of participating in a public arts program along with other coastal cities. The project involves purchasing a fiber glass sea lion sculpture which would be decorated by local artists and displayed in the City. The cost to purchase the sculpture is \$1,500. She suggested that Councilors think about the idea. One suggestion for using the sculpture was to use it as a geocache location. Mayor Ruede noted that there might be opportunities for community publicity surrounding the decoration, placement and/or naming of the sculpture.

14. 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 9:03 pm.

APPROVED BY THE DUNES CITY COUNCIL ON THE 10th DAY OF DECEMBER 2015.

Rebecca Ruede, Mayor

ATTEST:

Jamie Mills, Interim City Administrator/Recorder