



**CITY COUNCIL MEETING MINUTES ~ APPROVED  
MAY 11, 2017 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 May 11<sup>th</sup>, 2017, meeting of the Dunes City Council to order at 7:00 pm.

**2. ROLL CALL**

Roll Call was taken by City Administrator/Recorder, Jamie Mills.

**Present:** Mayor Rebecca Ruede, Council President Sheldon Meyer, Councilor Duke Wells, Councilor Tom Mallen, Councilor Alan Montgomery, and Councilor Robert Forsythe. Councilor Robert Orr arrived at 7:03 pm.

**Absent and Excused:** None.

**Also Present:** Administrative Assistant Rapunzel Oberholtzer, and several citizens.

**3. PLEDGE OF ALLEGIANCE**

All who were present stood for the Pledge of Allegiance.

**4. APPROVAL OF THE AGENDA**

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

**5. APPROVAL OF THE CONSENT AGENDA**

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

**6. ANNOUNCEMENTS / CORRESPONDENCE**

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

- A. The Oregon Dunes Triathlon and Duathlon is scheduled to take place this Saturday, May 13<sup>th</sup>. We're desperately in need of more volunteers. Volunteers can show up at the event

on Saturday to register. Volunteers can check in with Rapunzel or Staci between 6:00 and 6:30 am.

- B. AED and medical Emergency Response training will take place on Tuesday, May 16<sup>th</sup> beginning at 9:00 am. Please notify City Hall if you plan to attend so sufficient materials will be available. The cost is \$15 per person. Staff and City Council member costs will be covered by the City.
- C. The Budget Committee will meet on Thursday, May 18<sup>th</sup>, at 3:00 pm to consider the proposed Fiscal Year 2017-2018 budget.
- D. There will be a memorial held for long-time Dunes City resident Jerry Wasserburg on Thursday, June 8<sup>th</sup>, at 4:00 pm at the meeting hall at Honeyman State Park.
- E. Darlings Resort and Marina is organizing a fireworks display on Saturday, July 1<sup>st</sup>, and is looking for donations. Darlings is also hosting an Open Season Barbecue May 27 with food, games and beer!
- F. The Governor is holding a press event on Friday, May 19<sup>th</sup>, in Cottage Grove to mark the progress Oregon has made in the last twenty years protecting children from tobacco through the Oregon Tobacco Prevention and Education Program.
- G. Birthday wishes to Public Works Superintendent Richard Palmer (May 1<sup>st</sup>), Mayor Ruede (May 20) and Councilor Tom Mallen (May 29<sup>th</sup>). Refreshments will be served after the meeting. All are welcome to join.

## **7. CITIZEN INPUT ON ITEMS NOT ON THE AGENDA**

There was none.

## **8. NEW BUSINESS**

- A. Ordinance No. 244 Amending Chapter 10 of the Dunes City Code of Ordinances Relating to the Form of Ordinances Which Amend or Supplement Code

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

Mayor Ruede asked if any Councilor desired the ordinance to be read in full. None did.

**Council President Meyer made a motion to read the ordinance by title only and Councilor Mallen seconded the motion. The motion passed by unanimous vote.**

Mayor Ruede read Ordinance No. 244 by title only, “An Ordinance Amending Title I, Chapter 10 of the Dunes City Code of Ordinances, Entitled ‘General Provisions’; Amending Language Regarding the Form of Ordinances Which Amend or Supplement Code in Section 10.17”

B. Approval of IGA with Lane County for Road Maintenance

City Administrator/Recorder Mills explained that Lane County is offering its services to Dunes City if needed in the event that the City’s Public Works Supervisor cannot perform work necessary.

**Councilor Mallen made a motion to approve the IGA with Lane County for road maintenance. Councilor Orr seconded the motion.**

Following discussion, about who should sign the IGA on behalf of the City it was agreed to amend the motion.

**Councilor Mallen made a motion to approve the IGA with Lane County signed by City Administrator/Recorder Mills. Councilor Orr seconded the amended motion. The motion passed by unanimous vote.**

**9. PUBLIC HEARINGS**

A. Ordinance No. 244 Amending Chapter 10 of the Dunes City Code of Ordinances Relating to the Form of Ordinances Which Amend or Supplement Code

Mayor Ruede opened the Agenda item for public hearing at 7:15 pm and asked if there was anyone signed up to comment on the ordinance. There was no one and Mayor Ruede closed the public hearing at 7:17 pm.

City Administrator/Recorder Mills explained that Dunes City’s current Code requires that when amending any part of a Chapter, the entire Chapter must be replaced with both new Code language as well as existing, unamended language. She went on to explain that there is new case law that says that when any provisions of older Code are replaced with new, amending Code, the older provisions are then considered to be new with the effective date of the new Code ordinance. She noted that this could open the door for Code challenges if the City were to try to enforce older provisions that are included in newly adopted Code. The proposed ordinance is based on City Counsel’s recommendation to replace only specific Code Sections as necessary rather than entire Chapters.

## B. Conditional Use Permit Application Submitted by Dunes City

Mayor Ruede announced that, “this evening we have a public hearing on an application for a Conditional Use Permit to waive rear yard setback requirements for a lot line adjustment, as applied for by the City of Dunes City.

“These proceedings will be recorded.

“This hearing will be held in accordance with the land use procedures required by the City and the State of Oregon. This is a Type III Quasi-Judicial Procedure.

“Staff will identify the applicable substantive criteria which have also been listed in the staff report. These are the criteria the Council must use in making its decision. All testimony and evidence must be directed toward these criteria or other criteria which you believe applies to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the City and parties involved an opportunity to respond to the issue would preclude an appeal to the Oregon Land Use Board of Appeals based on that issue.

“Any party interested in a land use matter may challenge the qualification of any Councilor to participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a Councilor’s bias, prejudgment, conflict of interest, or other facts from which the party has concluded that the Councilor will not make a decision in an impartial manner.”

Mayor Ruede asked if any Councilor wished to declare a conflict of interest, bias or ex parte contact. None did. She asked if any member of the public wished to challenge a Councilor’s impartiality. None did. Mayor Ruede opened the public hearing at 7:22 pm.

City Administrator/Recorder Mills explained some history behind the City’s application for a Conditional Use Permit, noting that the City Hall building encroaches on two neighboring properties (and has for years). The City has been negotiating with the neighbors for some time and has finally reached an agreement whereby the neighbors will deed a swath of land from one parcel to the City and will grant an easement for the same width of land on the other parcel. The CUP application, if approved, would allow a property line adjustment to take place so that the swath of land could be conveyed to the City. In exchange, the City will pay for a fence across both neighboring parcels.

City Administrator/Recorder Mills referenced a letter received by the City from a resident who opposed approval of the application, citing concerns about fire hazard. She explained that the Fire Marshall is aware of the situation and has no concerns. City Administrator/Recorder Mills also explained that the resident had contacted Representative McKeown’s office to express her concerns. Representative McKeown’s office investigated and found that the City had followed the required processes and, since the City and the neighbors negotiated a settlement, found no reason to intervene in the matter.

City Administrator/Recorder Mills went on to explain that the Planning Commission held a public hearing on the application and voted unanimously to recommend that the Council approve the application.

There was some discussion during which it was noted that the propane tanks for the emergency generator would be moved to the concrete pad at the back of City Hall where they could be securely anchored, and that the Fire Marshall thought the new location would be safer than their current location in the parking area.

There were no citizens who wished to testify in favor or in opposition to the application.

Mayor Ruede closed the public hearing at 7:30 pm.

**Council President Meyer made a motion to approve the Staff Report, accept the Findings of Fact and accept the Conditional Use Permit. Councilor Montgomery seconded the motion. The motion passed by unanimous vote.**

- C. Resolution Series 2017, No. 11 (5/11/2017), Certifying that Dunes City Provides Four Municipal Services Enumerated in Section 1, ORS 221.760

Mayor Ruede opened the Agenda item for a public hearing at 7:34 pm. There was no member of the public present who wished to comment on the Resolution. Mayor Ruede read aloud the four services provided: fire protection; street construction, maintenance and repair; storm sewers; and, planning, zoning and subdivision control. She closed the public hearing at 7:35.

**Councilor Orr made a motion to adopt Resolution Series 2017, No. 11. Councilor Mallen seconded the motion. The motion passed by unanimous vote.**

## **10. EXECUTIVE SESSION**

Mayor Ruede adjourned the meeting at 7:36 pm to go into Executive Session held pursuant to ORS 192.660(1)(f) to consider information or records exempt by law from public inspection.

Mayor Ruede reconvened the City Council meeting at 8:10 pm.

**Councilor Forsythe made a motion to have the City Manager work with the City Counsel to come to a favorable resolution in the settlement of the copyright infringement action. Council President Meyer seconded the motion. The motion passed by unanimous vote.**

## 11. OLD BUSINESS

- A. Ordinance No. 244 Amending Chapter 10 of the Dunes City Code of Ordinances Relating to the Form of Ordinances Which Amend or Supplement Code

Mayor Ruede read aloud the title of Ordinance No. 244 for the second time, “An Ordinance Amending Title I, Chapter 10 of the Dunes City Code of Ordinances, Entitled ‘General Provisions’; Amending Language Regarding the Form of Ordinances Which Amend or Supplement Code in Section 10.17”

**Council President Meyer made a motion to read Ordinance 244 by title only for the second time. Councilor Orr seconded the motion. The motion passed by unanimous vote.**

**Councilor Orr made a motion to accept the wording of Ordinance 244 as presented or amended. Councilor Montgomery seconded the motion. The motion passed by unanimous vote with all Councilors voting in favor.**

- B. Property Acquisition Negotiations

City Administrator/Recorder Mills explained that the property being considered for acquisition is owned by Ms. Lillian Peterson and is located across the parking lot from City Hall near the Overlook. Ms. Peterson was present in the audience and addressed the Council saying that she was willing to sell a portion of the parcel to the City.

Councilor Wells noted that he is on the Property Acquisition Committee with City Administrator/Recorder Mills and suggested that the Committee meet with Ms. Peterson to discuss the issue further.

- C. Resolution Series 2017, No. 10 (05/11/2017), Approval of Tentative Subdivision Plan, The Woods at Little Woahink

City Administrator/Recorder Mills explained that several years ago the then owners of the land submitted a preliminary plat for a subdivision. The City did not approve the plat, the owners appealed to LUBA, the City then appealed the LUBA decision and, ultimately, the court ruled that the City must approve the plat. For various reasons, the City never approved the plat. New owners of the land are interested in moving forward with the subdivision but can not do so until the preliminary plat is approved by the City with conditions as ordered by the court.

**Councilor Orr made a motion to approve the preliminary plat with the conditions set forth by the court. Council President Meyer seconded the motion. The motion passed by unanimous vote.**

#### D. Recommendation Regarding Settlement of the Copyright Infringement Action

A motion for action on this Agenda item was made, seconded and unanimously approved after Executive Session.

### **12. REPORTS**

- A. Mayor's Report: Mayor Ruede encouraged everyone to go out and support and enjoy the Triathlon.
- B. Community Center Report: Councilor Wells did not have a report.
- C. Site Review Report: There was no report.
- D. Water Quality Report: Council President Meyer reported that, despite all of the rain, water testers reported good test results.
- E. Ad Hoc Committee on Tsiltcoos Lake Club Roads: Councilor Orr reported that there have been no meetings.
- F. Public Works Maintenance Supervisor's Report: There was no report.
- G. Emergency Services Report: City Administrator/Recorder Mills reported that the Coast Guard and other emergency responders will hold a training disaster test on June 8<sup>th</sup> that will involve a scenario in which a ship in the port will be on fire with people and hazardous material on board. She also reported that in September there will be a statewide test simulating monsoon rains displacing people and shelters, and the Lane County Health Department has reported that mumps are back—anyone reporting symptoms should be isolated for up to 25 days.
- H. City Administrator/Recorder/Planning/Staff Report: City Administrator/Recorder Mills reported that on May 1<sup>st</sup> Dunes City welcomed new permit tech, Jan Sapienza, to the Staff. She also reported that the CAC met to continue its review of Chapter 155.1, .2, and .3 and the Planning Commission met to continue its review of Chapter 155.4. She explained that she is working with one of the City's engineering firms to bring the water right permit up to date with points of diversion and is looking for someone to spend time on Woahink Lake locating underwater pumps and recording GIS locations. She thanked the Lane County road crew for cleaning up the roads in time for the Triathlon.

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

Mayor Ruede thanked Staff for decorating the dais with teal ribbons in honor of May being Health Awareness month and Ovarian Cancer month. She urged everyone to get their annual checkups.

**14. ADJOURNMENT**

**Councilor Mallen made a motion to adjourn. Councilor Orr seconded the motion. There was no vote taken.**

Mayor Ruede adjourned the meeting at 8:35 pm.

**APPROVED BY THE DUNES CITY COUNCIL ON THE 8<sup>th</sup> DAY OF JUNE 2017.**

[Signed copy available at City Hall]  
Sheldon Meyer, Council President

ATTEST:

[Signed copy available at City Hall]  
Jamie Mills, City Administrator/Recorder