



**CITY COUNCIL MEETING MINUTES ~ APPROVED  
OCTOBER 11, 2017 AT 6:00 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 Robert Forsythe called the Wednesday, October 11, 2017, meeting of the Dunes City Council to order at 6:00 pm.

**2. ROLL CALL**

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

**Present:** Mayor Robert Forsythe, Council President Sheldon Meyer, Councilor Duke Wells, Councilor Tom Mallen, Councilor Alan Montgomery, and Councilor Robert Orr. There is one vacancy on the Council.

**Also Present:** Administrative Assistant Rapunzel Oberholtzer, *Siuslaw News* community reporter Mr. Jared Anderson and many Dunes City residents.

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

**6. ANNOUNCEMENTS / CORRESPONDENCE**

City Administrator/Recorder Mills read aloud from the list of announcements on the Agenda.

A. Dunes City is seeking residents to serve on the Citizens Advisory Committee (CAC) that is reviewing the Land Use Codes of Dunes City. Applications are available on the Dunes City website or at City Hall, 82877 Spruce Street in Westlake.

B. The water meter reader for this year is James McDonald. He will be calling to make arrangements to read the meters of everyone who shares in the Dunes City Domestic Water Supply. He will be wearing an identification badge.

C. Birthday wishes to Council President Sheldon Meyer on the 21<sup>st</sup>.

Mayor Forsythe reminded everyone that prescription medications should never be flushed into septic or sewer systems. He noted that the Florence police station sometimes has a drop box for unused medications and this year the Bi-Mart store will be accepting leftover medications on Saturday, October 28, from 10:00 am to 2:00 pm.

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

Mayor Forsythe recognized Mr. Greg Hicks, a Dunes City resident, who explained that he had attended the last Planning Commission meeting during which the Commission discussed the OLCC marijuana grow applications and asked the City Administrator to find out if those applications could be recalled for further review. Mr. Hicks subsequently followed up with the City Administrator who informed him that the City Attorney advised that only the City Council could request the applications back. He asked that the City Council direct the City Administrator to recall the applications for further review.

Mayor Forsythe recognized Ms. Catherine Caudle, a Dunes City resident, who thanked the Council for passing Ordinance No. 245. Ms. Caudle pointed out that it was important for the City to follow Oregon Statute 475B. She noted that the Exemption section in Ordinance No. 245 violated State law. She went on to explain that she talked with a representative of the Oregon DOJ who expressed willingness to work with Ms. Caudle to fix the Ordinance language. She noted that the error in the Ordinance opened the City to the possibility of being sued by the State and she suggested that the City amend the Ordinance to comply with State law.

Ms. Caudle pointed out that the City Administrator did not have the authority to approve the OLCC LUCS applications, only the Planning Secretary or the Planning Commission did, according to City Code. Ms. Caudle noted that it was vital that the City figure out what to do to not break State statute. According to Ms. Caudle, the director of OLCC wants to return the LUCS applications and the representative of the Oregon DOJ is upset that the City tried to preempt State statute.

Ms. Caudle noted that she had reviewed the City's Comprehensive Plan and found that since 1978 the Plan has stated over and over again "family gardens" are permitted, which is a huge leap to commercial agriculture. She advised the Council to review the language in the Plan. Ms. Caudle went on to say that the Citizen Involvement Program isn't working and should go back to the way it used to be so that people can meet and talk about issues, and have a voice in the community.

Mayor Forsythe recognized Mr. Del Riesenhuber, a Dunes City resident, who reminded everyone that during Mayor Forsythe's first meeting as Mayor he remarked that he would like to see more citizen involvement in the affairs of the City. Mr. Riesenhuber pointed out that in

February of 2035 [sic] the City Council approved a resolution disbanding almost all of the Committees and Commissions with the exception of the Planning Commission, the Budget Committee and the Water Quality Committee, an indication that the City did not want any citizen involvement. After that, he went on, citizens did not show up for meetings. He went on to say that that Resolution should be reversed or a new one adopted that asks for citizens to be actively involved.

Mayor Forsythe recognized Mr. Gerald Curran, a Dunes City resident since 2005, who noted that he had at one time served on the City Council. Mr. Curran expressed concern about the way the Council and the City is going, referring to an article entitled “Proposed Pot Grows in Dunes City Ill-Advised” that appeared in a Eugene newspaper today. He pointed out that the article says that Dunes City Administration has condoned and granted three marijuana grow operations within the City limits, issuing Land Use Conformance Statements without Planning Commission consideration and public notice. He went on to note that whatever is done must be legal and what’s being done now is not legal. He advised the Council to take these issues into consideration, get the community involved and act in accordance with the law.

Mayor Forsythe recognized Mr. Wes Caudle, a Dunes City resident, who noted that during the August 24, 2017, Council meeting he presented a letter he wrote concerning the actions of City Administrator Jamie Mills. In that letter, Mr. Caudle objected to a letter from City Administrator/Recorder Mills that was published in *The Siuslaw News* and explained the City’s position and actions regarding marijuana grows in the City up to publication date. Mr. Caudle reminded everyone that in his letter to the Council he pointed out that the City Administrator/Recorder’s letter contained half-truths and inaccuracies, and he requested that a retraction equal to size and form of the City Administrator/Recorder’s original letter be submitted to *The Siuslaw News*. Mr. Caudle asked Councilors if the letter in the newspaper was sanctioned by the Council or if the City Administrator/Recorder had authority to deliberately mislead the public. He went on to read §32.07A from Dunes City’s Chapter 32 (Committees and Commissions) of the City Code where language states that all Committee communications except to City Council, Mayor or City employees must be first approved by the City Council, and §32.07B where language states that communications to certain parties must be approved by the Committee. Mr. Caudle went on to say that in light of lack of Council approval, the letter published in the newspaper violated Chapter 32, and he again asked for a retraction to be emailed to interested parties and to *The Siuslaw News* with updates on the latest actions, including the opt out and the upcoming election.

Mayor Forsythe recognized Ms. Mary Jo Leach, a Dunes City resident, who gave Staff copies of two newspaper articles and asked that they be included in the record. Ms. Leach went on to point out that Dunes City has only eleven commercially zoned properties, the rest are zoned residential—and there are no agricultural zones. Referring to the minutes of the March 30, 2017, joint session of the City Council and the Planning Commission, Ms. Leach noted that she thought the City Administrator’s next action would be to contact Speer Hoyt, the City’s attorneys, the law firm that led the City to a LUBA appeal over a septic maintenance ordinance. She noted also that the City’s Comprehensive Plan, Charter and Code and wishes of the citizens clearly show that no commercial activity would be welcome or allowed in Dunes City.

*COPIES OF MS. LEACH'S NEWSPAPER ARTICLES ARE ON FILE AT CITY HALL.*

Mayor Forsythe recognized Ms. Karen Peck, a Dunes City resident for twenty-three years, who urged the Mayor and Councilors to read the City Charter. She explained that Dunes City is only a city because in the late 1950s the State initiated plans to incorporate a large area for preservation as part of the park system. Residents of Dunes City sought to avoid this by incorporating and becoming a municipality. The agreement required that the new City become the steward of the watershed by limiting residential density to one dwelling per acre and not allow commercial development or agriculture. She went on to note that it should be clear to everyone that grow sites are not a good match for the community of residences.

Mayor Forsythe recognized Mr. John Stead, a Dunes City resident since 2000, who explained that his focus would be on the water. Mr. Stead read from a prepared statement:

*"In Dunes City, all lots shall be served by an approved water supply. The Oregon Liquor Control Commission, OLCD, requires that producers submit proof of a legal source of water as evidenced by an authorization from the Oregon Water Resources Department.*

*"All waters belong to the public. Further, the right to its reasonable control belongs to the public. Utilization and control is assigned to a single state agency—the Oregon Water Resources Department. OWRD is required to take actions compatible with the city's Comprehensive Plan; which specifies that minor economic activities, such as home occupations, will be permitted if they are not harmful to air, water, or land quality, and if they are not potential nuisances to neighboring uses. Further, commercial activity in residential districts shall be limited to the home occupations listed in the applicable zoning ordinance.*

*"The marijuana producers propose to obtain water from a well completed May 1, 2007, for domestic purposes. Domestic wells provide water to serve no more than three residences for drinking, culinary, or household uses.*

*"These producers appear to have requested a Transfer Permit. Standards for approval of this permit as set forth in ORS 540.531(2) specify that the new point of diversion will appropriate ground water from an aquifer that is hydraulically connected to the authorized surface water source.*

*"Groundwaters belong to the public. Control, protection, and use are governed by the state on behalf of the public. Groundwater shall be managed so as to protect water resources, existing water rights, and the public interest, welfare and health."*

Mr. Stead distributed copies of his statement to Staff and Councilors.

*A COMPLETE COPY OF MR. STEAD'S ANNOTATED STATEMENT IS ON FILE AT CITY HALL.*

## 8. NEW BUSINESS

### A. Mayor's Proclamation of Red Ribbon Week

Mayor Forsythe read aloud the Mayoral Proclamation:

*"WHEREAS, alcohol and drug abuse in this nation have reached epidemic stages; and*

*"WHEREAS, it is imperative that visible, unified prevention education efforts by community members be launched to eliminate the demand for drugs; and*

*"WHEREAS, the National Red Ribbon Campaign offers citizens the opportunity to demonstrate their commitment to drug-free lifestyles (meaning no use of illegal drugs, no illegal use of legal drugs); and*

*"WHEREAS, the National Red Ribbon Campaign will be celebrated in every community in America during Red Ribbon Week, October 23-31, 2017; and*

*"WHEREAS, business, government, parents, law enforcement, media, medical institutions, religious institutions, schools, senior citizens, service organizations, and youth will demonstrate their commitment to healthy, drug-free lifestyles by wearing and displaying red ribbons during this week-long campaign;*

*"NOW, THEREFORE, I, Mayor Robert Forsythe, do hereby proclaim October 23<sup>rd</sup> through the 31<sup>st</sup>, 2017 as RED RIBBON WEEK, and encourage Dunes City citizens to participate in drug prevention education activities, not only during Red Ribbon Week, but all year long, making a visible statement that we are strongly committed to a drug free City.*

*"Signed this 11<sup>th</sup> day of October, 2017."*

### B. Appointment of Individual to Finish the Remaining City Councilor Term of Robert Forsythe (01/09/2019)

Mayor Forsythe invited applicants to the Council vacancy to say a few words about their application.

Mr. Richard Booth introduced himself and proceeded to read from a prepared statement:

*"First I would like to express my gratitude for this opportunity to serve the citizens of Dunes City.*

*"I believe that brevity is clarity so this will be short.*

*"I have a long time association with Dunes City. My great grandfather had a box factory at the south end of Siltcoos Lake. One of the first things my dad did when he returned home from Europe after WWII was bring my brother and me to Fish Mill Lodge where we*

*rented one of their small boats and enjoyed the lake. My parents bought the house we now live in about 1969 and it has been a family gathering spot since then.*

*"I have read both the Dunes City Charter and the Comprehensive Plan thoroughly in preparation for this and wholeheartedly support the philosophies therein. Two items seem very significant in the plans.*

*"1. We are a city of semi-rural living, rural low density residential character, and*

*"2. We value very highly citizen involvement in the governing of our community.*

*"I believe that our city should promote the recreational use of our lakes commensurate with good safety and environmental needs so that many families may enjoy the things I have been fortunate to experience.*

*"I run my life with three basic principles, Love God, always tell the WHOLE truth, and follow the Golden Rule and I will follow these principles as a councilor."*

Mr. Andrew Kellerman introduced himself as a Dunes City resident and explained that he would be honored to serve on the Council to help the community he loves and lives in. He noted that, like Mr. Booth, he would advocate for truth and transparency in his service.

Ms. Susan Snow introduced herself as a Dunes City resident and explained that she has always enjoyed serving the communities in which she has lived over the years. She went on to explain that her education is in business management as an engineer with experience in strategic planning and she would be a good fit to help the community.

Mr. Patrick Highsmith introduced himself as a Dunes City resident for seven years, retired from AT&T after 30 years. He explained that during his time with AT&T he was a union steward for 26 years during which time he helped resolve many kinds of grievances. He noted that there are two sides to every story, both sides have to be heard, and he would bring his ability to do that to the Council.

Council President Meyer suggested that the Councilors form a Committee of three to interview all of the applicants more thoroughly and come back with a recommendation to the full Council and he volunteered to lead the Committee. Councilors generally agreed with the suggestion. Councilors Wells and Mallen agreed to be part of the process. City Administrator/Recorder Mills agreed to schedule interviews.

### C. Appointment of Individual to Lane ACT

City Administrator/Recorder Mills explained that the Lane Area Commission on Transportation (LaneACT) is an advisory body chartered by the Oregon Transportation Commission that provides cities to provide input on funding for road improvements, among other things. She noted that Councilor Orr had volunteered to attend meetings at one time but his schedule no longer permits him to attend. She also noted that having a presence at the Lane ACT meetings helps keep the City informed about projects and gives the City a

voice in the decision-making process and funding opportunities. Mayor Forsythe pointed out that Lane ACT members are elected officials.

Since no Councilors volunteered, it was generally agreed to wait until the new Councilor is appointed and determine whether he or she would be willing to attend meetings on behalf of the City.

D. Planning Commission Annual Citizen Involvement Program Report

Planning Commission Chairman Bonnie Allen could not attend the meeting and asked that City Administrator/Recorder Mills read the report into the record. City Administrator/Recorder Mills read aloud from the report that was included in Councilors' meeting packets.

*A COPY OF THE REPORT IS ON FILE AT CITY HALL.*

E. Chapter 90A Street and Road Design Standards Draft Materials

City Administrator/Recorder Mills explained that the rough draft included in the Councilors' meeting packets is compiled from other cities' code with the intention of standardizing road construction requirements within Dunes City. She noted that she hoped that Councilors would read the material and provide feedback resulting in a final document that can be submitted for adoption.

Mayor Forsythe suggested tabling discussion until another meeting. There were no objections.

F. Request by Randall and Dennis Johnson to Acquire Property Owned by Dunes City

City Administrator/Recorder Mills referred to a letter in the Councilors' meeting packets from Randall Johnson written on behalf of his brother, Dennis. She explained that in the letter Dennis Johnson is requesting to purchase one of Dunes City's recently acquired undeveloped roads adjacent to his property. She went on to explain that this request should be fairly straightforward to resolve but she expects that other similar requests to acquire portions of the undeveloped roadways might not be as straightforward. She suggested that the Council appoint an ad hoc committee to review each request on a case by case basis and provide Staff with guidance on how to proceed with the requests.

Mayor Forsythe disclosed that although, as Mayor, he would not vote on any Council decisions unless there was a tied vote, he was one of the property owners adjacent to one of the undeveloped, non-vacated roadways.

**Councilor Wells made a motion to turn the property over to Dennis Johnson as long as Mr. Johnson took care of all of the associated costs and agreed to grant a utility easement to the City. Councilor Orr seconded the motion.**

Following discussion, it was generally agreed that an ad hoc committee should be formed to review each request individually. Councilors Montgomery, Wells and Orr volunteered. City Administrator/Recorder Mills pointed out that the transfer of property from the City to another entity would not be a vacation, but would be a sale and the City might be required to receive payment.

**Councilor Wells withdrew his motion.** It was agreed that the ad hoc committee would look into the transaction.

G. Request for Commitment of Attendance at Integrated Emergency Management Course

City Administrator/Recorder Mills explained that trainers from FEMA's Integrated Emergency Management Course (IEMC) were willing to hold a class in Florence if they could have a commitment for twenty to forty attendees. She noted that SVFR Chief Langborg suggested that all WLEOG members send a representative to the class.

**Councilor Mallen made a motion to commit to allow Dunes City Staff to attend the IEMC. Councilor Orr seconded the motion. The motion passed by unanimous vote.**

H. Resolution Series 2017, No. 18 – DLCD Planning Assistance Grant Application

City Administrator/Recorder Mills explained that DLCD offers Technical Assistance grants to cities to help defray costs associated with code amendments and such. City Staff has completed the grant application asking for \$52,000, which is due October 13 and requires a resolution in support of the application.

**Councilor Orr made a motion to approve the Resolution. Councilor Mallen seconded the motion.**

Mayor Forsythe read aloud the title of the Resolution, "A resolution supporting the submission of a grant application to the Oregon Department of Land Conservation and Development and directing Staff to prepare and submit such grant application for Technical Assistance in the review, amendment, approval and codification of Title XV entitled 'Land Use' of the Dunes City Code of Ordinances," and followed by reading the body of the Resolution.

**The motion passed with five votes in favor, none opposed, no abstentions, no absences and one vacancy on the Council.**

I. Resolution Series 2017, No. 19 – Adoption of Charter Cable Franchise Agreement

City Administrator/Recorder Mills pointed out that the proposed agreement was included in the Councilors' meeting packets. She also pointed out that the agreement was for cable services and did not include internet services, which was being negotiated with the internet franchise. She noted that Charter had agreed to provide free cable TV to the City and to the fire station on Clear Lake Road.

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

J. Natural Gas Public Safety Announcement

City Administrator/Recorder Mills referred Councilors to a copy of a letter from NW Natural that was included in meeting packets. After discussion, Mayor Forsythe asked City Administrator/Recorder Mills to find out if any action by the City was required.

K. Schedule Quarterly Budget Committee Meeting

Councilors agreed to meet on Wednesday, October 18, at 3:00 pm.

Council President Meyer suggested that the Council revisit the citizen input in which the Council was asked to review the LUCS applications for marijuana grow sites.

**Council President Meyer made a motion to request that OLCC and OHA send back the applications for marijuana grow sites for Council review to make sure that State statutes have been followed. Councilor Wells seconded the motion. The motion passed by unanimous vote.**

**9. PUBLIC HEARINGS**

There were none.

**10. EXECUTIVE SESSION**

There was none.

**11. OLD BUSINESS**

A. Copyright Infringement Settlement Agreement

City Administrator/Recorder Mills provided a history of the copyright infringement issue. She explained that at one time volunteers developed the City's website and included two copyrighted images without permission from the owner. The City was sued over the copyright infringement and subsequently negotiated a settlement.

**Councilor Orr made a motion to have City Administrator/Recorder Mills sign and release the funds for the settlement for copyright infringement. Councilor Montgomery seconded the motion. Councilors Mallen, Montgomery, Orr and Wells voted in favor. Council President Meyer voted against the motion. The motion passed.**

## **12. REPORTS**

- A. Mayor's Report: Mayor Forsythe reported that he and City Administrator/Recorder Mills had met with the owners of Best in the West Events, to discuss the Oregon Dunes Triathlon and a contract with Dunes City. All parties will meet again. The event owners seem to be receptive to using former Mayor Rebecca Ruede's name in some fashion as a memorial to her. Mayor Forsythe went on to announce that City Staff had won a safety award presented by the League of Oregon Cities and CIS.
- B. Community Center Report: Councilor Wells reported that he would work on the trench for the pipeline to the propane tanks.
- C. Water Quality Report: Council President Meyer reported that he had not received the test report for October.
- D. Public Works Maintenance Supervisor's Report: City Administrator/Recorder Mills distributed copies of photos showing water runoff on Kiechle Arm Road and explained that work being done to prevent future runoff was in progress.
- E. Emergency Services Report: City Administrator/Recorder Mills reported that she attended the September WLEOG meeting during which CERT representative Mr. Frank Nulty reported that he is cycling out outdated emergency items in the City of Florence storage containers—he recommends that no one should store bleach, but should include a dehumidifier in storage containers. City Administrator/Recorder Mills went on to report that she attended the Oregon Emergency Management Association's 2017 conference and participated in several breakout sessions; her report on the conference and the information she gathered is on file at City Hall. She noted that there was discussion about lessons learned from the Great East Japan earthquake and that DOGAMI is working on providing Oregon cities with estimates about what they will need in the event of a disaster.
- F. City Administrator/Recorder Report: City Administrator/Recorder Mills reported that there were a total of eight building permits issued in September; the CAC and the Planning Commission continue their work on Title XV. City Administrator/Recorder Mills went on to report that there was one site review at a house on Siltcoos Lake that is in danger of sliding into the lake due to a landslide; there will be some minor intrusion into the shoreland area, but contractors will ensure installation of appropriate silt fencing and other protections to preserve water quality as much as possible. She also reported that Woodland Lane repairs were done and a water bar was installed, although the City has received a complaint about the water bar.

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

Councilor Orr thanked everyone for attending the meeting and for contributing, noting that the comments and opinions offered were heard by the Council. He went on to say that he and his wife moved here because it was a beautiful place and he would like to keep it that way.

Councilor Wells thanked everyone who applied for the City Council vacancy. He noted that he was glad that the City had chosen to revisit the marijuana grow situation.

Mayor Forsythe pointed out that the Council has to work within the rules and regulations for conducting meetings, and he thanked everyone who came to and participated in a productive meeting.

#### **14. ADJOURNMENT**

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

Mayor Forsythe adjourned the meeting at 7:45 pm.

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

[Signed copy available at City Hall]

Robert Forsythe, Mayor

ATTEST:

[Signed copy available at City Hall]

Jamie Mills, City Administrator/Recorder