



PLANNING COMMISSION SPECIAL SESSION MINUTES ~ APPROVED
THURSDAY, SEPTEMBER 21, 2017 AT 5:45 PM
City Hall ~ 82877 Spruce St., Westlake, OR 97493

The proceedings of the Dunes City Planning Commission were recorded and are on file at Dunes City Hall. Upon approval by the Planning Commission, these minutes will be available online at www.dunescity.com.

1. CALL TO ORDER

Chairman Bonnie Allen called the September 21 Planning Commission Special Session to order at 5:45 pm.

2. ROLL CALL

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

Present: Chairman Bonnie Allen, and Commissioners Brett McKnight, Ken Pesnell, and Ric Ziegler.

Absent and Excused: Vice Chairman Barry Sommer.

Others Present: Administrative Assistant Rapunzel Oberholtzer and numerous residents.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

Chairman Allen suggested modifying the Agenda to move New Business Item 8A (DLCD Online Training) to a future meeting. There were no objections.

Commissioner Pesnell made a motion to approve the Agenda as amended. The motion was seconded by Commissioner McKnight. The motion passed by unanimous vote.

5. APPROVAL OF THE CONSENT AGENDA

A. Planning Commission Meeting Minutes of August 31, 2017

Commissioner McKnight made a motion to approve the Consent Agenda. The motion was seconded by Commissioner Ziegler. The motion passed by unanimous vote.

6. ANNOUNCEMENTS /CORRESPONDENCE

Chairman Allen read an announcement from the Agenda.

- A. In its September 13 meeting, the City Council adopted amended Ordinance No. 245 banning all marijuana businesses and facilities within Dunes City, except for those marijuana-related entities that have, at the time of adoption of Ordinance No. 245, obtained a Land Use Compatibility Statement pursuant to ORS 475B.063. The Council also adopted Resolution Series, No. 17 (09/13/2017) which approves referral to the electors of Dunes City the question of banning all marijuana businesses and facilities within the City.

7. CITIZEN INPUT

Chairman Allen explained that the Citizen Input item is allocated a total of twenty minutes for speakers to provide comments.

Chairman Allen recognized Ms. Catherine Caudle. Ms. Caudle referred to a copy of a letter she prepared for the Commissioners in which she requested that the Planning Commission take action to solve an issue with LUCS applications filed with the OLCC. She went on to explain that she contacted OLCC and requested that the LUCS applications be returned to the Planning Commission for corrections. She was advised by the OLCC representative that none of the applicants had been assigned to an advisor and the applications are pending.

Ms. Caudle went on to explain that she had been working with the head engineer (Mitch Wagner) from Central Lincoln who has been busy with marijuana grows in Florence. His recommendation is that growers be required to use only 3-phase equipment to reduce brown-outs and loss of electricity due to transformers overloading and melting. Mr. Wagner pointed out that Dunes City would not be required to invest in the infrastructure upgrade because only the growers would use it. Ms. Caudle went on to note that requiring the LUCS applicants to upgrade would be considered a reasonable condition attached to the LUCS.

A COPY OF MS. CAUDLE'S LETTER IS ON FILE AT CITY HALL.

Some residents complained that they were not able to hear Ms. Caudle because of microphone issues.

Chairman Allen recognized Mr. Charles Bang, a Dunes City resident since 1986 from a family with ties to the area for almost 100 years. Mr. Bang read from a prepared statement.

"Thank you for serving on the Dune City Planning Commission. Along with serving comes many responsibilities. You may recall SECTION 29 of Dunes City Oregon Charter, your OATH OF OFFICE Before entering upon the duties of the office, each officer shall take an oath or shall affirm constitutions and laws of the United States and of Oregon and agree to faithfully perform the office. This must not be taken lightly!"

“There is a large group of people, called Dune City Residents and Land Owners who’s life and wellbeing depends on you. Your importance to the Citizens of this City has never been more important.”

Mr. Bang noted that he had three LUCS statements, effectively given the green light by the City and he asked how many of the Commissioners had seen them. He then went on to read from his statement.

“Our submitted LUCS forms were completed by a City employee, not the planning commission. All other cities have this form completed by their planning commissions, their land use people.

“Our completed LUCS forms were filled out incorrectly. And the employee did not have the authority to complete this form without Planning Committee approval.

“On September 22, 2016 you asked for an answer from the city attorney to your question, ‘Can a marijuana grow be placed in a residential area?’ With the City Manager absent, the Assistant City Manager was expected to get your answer by the next meeting. October 27, 2016 the City Manager returned for the next meeting, and said there is no unfinished or old business and you never got your answer. It wasn’t even discussed until March, 2017. You asked the right question, but were blown off. Here is the answer:

“O.L.C.C State Statue 845-025-1115 (1) (B) The commission MUST deny an initial or renewal application if in an area that is zoned exclusively for R-1 use. All three of the applications are in R-1 predominately residential areas. At least two are in residential subdivisions.”

Chairman Allen announced that Mr. Bang’s time was expired. A member of the audience yielded his time to Mr. Bang. Mr. Bang continued to read.

“Without going into other issues life safety, brown outs, loss of adjacent landowners rights, fire, insurance, water issues and other interests. There is a simple fix!

“The Planning Committee Chair, personally needs to have the Dune City LUCS papers returned from the O.L.C.C. so they can be corrected and resubmitted. Then we will be in compliance with State Statues and the risk of improper actions will be diminished.

“The box that says the proposed land use has been reviewed and is prohibited should be checked and the R-1 zoning is left the same.

“The planning committee plays an important role in Our City to review and make decisions regarding applicant approval and denial. Over the years it has been essential in protecting the safety, health and welfare of Dunes City.

“Now should be no different and everything is on the line.”

A COPY OF MR. BANG'S STATEMENT IS ON FILE AT CITY HALL.

Chairman Allen invited Ms. Caudle to return to the microphone. Ms. Caudle re-introduced herself noting that she moved to Dunes City in 2014 and that she was a Ford Scholar who wished to help her community through community service. She went on to say that, in her opinion, this was an issue that needs to be resolved. She explained that one of things that is affecting and will affect us is our electrical grid. She went on to explain that it took about a month of working with Mitch Wagner, the head engineer at Central Lincoln, who said that there was no way that the electrical grid in Dunes City could handle the three marijuana grows. They are Tier II, the largest a grower can have in the State, and they would use about 15,000 kilowatts of electricity per month. She went on to say that there would be days when there would not be any electricity because of transponder meltdowns. She noted that the City is not rated for any kind of commercial use in the residential zones and do not have the proper infrastructure to handle this. Ms. Caudle explained that the City Council asked everyone to abide by a LUCS application that allows them to be in residential zones when that will lead to brownouts and complete absence of electricity while transponders are replaced. She noted that under Oregon Statute 475B.340 reasonably marijuana grow operations should pay for infrastructure upgrades and be required to use 3-phase electricity that would work with the Comprehensive Plan to reduce electrical use. She noted that she didn't think that Dunes City needed marijuana grows, and she agreed with the City Council that they didn't want them here, this issue is important for resident's livelihoods and for those people who depend upon oxygen tanks or dialysis units.

Ms. Caudle went on to note that the Doonbrae residence is 150 feet away from the cul-de-sac and the fire marshal asked her to look into that.

Chairman Allen recognized Mr. Wes Caudle, who introduced himself as a Dunes City resident. Mr. Caudle pointed out that the Agenda for the meeting included a discussion about the CIP Report to the City Council. He went on to say that he had questions about the Citizen Involvement Program, which the City's Comprehensive Plan requires, but he cannot find any information about it on the City's website. He noted that the Comprehensive Plan requires widespread citizen involvement but he could not find any information about the group, who the members are, or when it meets. He expressed concern that there was not enough communication with City citizens and concern that the CAC and the Planning Commission were comprised of the same people. He noted that he hoped the meeting would provide more information.

8. NEW BUSINESS

A. CIP Report to City Council

Chairman Allen read aloud the draft CIP report prepared by Staff, noting that the first paragraph provided an overview and history of the Program.

Commissioner McKnight suggested revising the report to show that the Planning Commission will do more outreach for citizen involvement in the CAC, including publishing

recruitment notices. Commissioner Pesnell pointed out that the one citizen member who was not also a Commissioner resigned from the CAC due to work schedule conflicts, which leaves the CAC comprised of only Planning Commissioners. Commissioner Ziegler noted that more outreach could be done to notify City citizens about recruiting efforts.

During discussion, it was generally agreed to revise the draft report to include mention that the Planning Commission will explore more outreach efforts and also note that there is currently only Planning Commissioners on the CAC.

Commissioner Pesnell made a motion for Staff to revise the Planning Commission's CIP Report to the City Council to include: 1) There is currently no citizen involvement on the CAC other than the Planning Commissioners, 2) The Planning Commission will actively recruit new CAC members, and 3) The Planning Commission will find ways to make Committee openings more apparent. Commissioner Ziegler seconded the motion. The motion passed by unanimous vote.

Chairman Allen offered to present the report to the City Council.

B. Staff Report – Follow Up from August 31 Meeting

Rapunzel informed Commissioners that Staff was still working on changes to the Criteria, Standards and Conditions of Approval Section 155.4.4.4 that were requested in June and August. There was no follow up report.

9. UNFINISHED/OLD BUSINESS

A. Continue Review of Chapter 155.4

Reviewing the Staff Report dated September 21, 2017, for Section 155.4.5 (Planned Unit Development Procedures), Staff pointed out that the City Attorney had made significant changes to the PUD content to arrange it more logically and clarify the approval criteria.

Staff pointed out, page by page, the changes made by the City Attorney and by a former Planning Commission in pages 56 through 70. Commissioners had no objections to the changes and review ended at Section 155.4.5.111 (Revocation of Planned Unit Development).

10. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA

Commissioner McKnight referred to a comment made earlier in the meeting that the LUCS applications were approved by the City Administrator rather than the Planning Commission and asked for discussion of the approval process. City Administrator/Recorder Mills noted that approval of a LUCS is a Type I procedure which gives her, as the only City employee, the authority to approve. She went on to explain that the City receives OLCC LUCS applications, DSL dock applications and Lane County Sanitation for septic system installations.

There was further discussion about approval process for OLCC LUCS applications. A question was raised about whether or not the existing LUCS could be recalled to allow the Planning Commission an opportunity to review the conditions attached to their approval. There was also some discussion about how to determine who approves OLCC LUCS in the future.

Commissioner Ziegler made a motion to put the procedures for approving a LUCS related to marijuana usage on the Agenda for the next meeting.

Discussion continued until about 7:03 pm.

Commissioner McKnight made a motion to continue discussion for at least another fifteen minutes. Commissioner Pesnell seconded the motion. The motion was passed by unanimous vote.

Commissioner Ziegler withdrew his motion.

Commissioner McKnight made a motion would be to request City Staff to contact the City Attorney on legal obligations if the City were to call the applications back, and then to contact State Land Use Planning to identify the status of those permits and what kind of window there would be to report back and the Commission to take an action.

During discussion it was noted that the Commission would not meet again until October and that the applications may already have been approved.

Commissioner McKnight withdrew his motion.

There was some discussion about whether or not an OLCC LUCS application should be approved by the City Administrator alone or in conjunction with the Planning Commission. There was further discussion about what actions could be taken to review conditions attached to the LUCS. It was generally agreed that City Staff would contact the State to find out the status of the LUCS applications, and contact the City Attorney about the legality of recalling those applications and whether or not City Council action would trump a recall.

Commissioner McKnight made a motion to direct City Staff to contact the State on the status of the LUCS and identify the window to recall the applications for further review. Commissioner Pesnell seconded the motion. The motion passed with a unanimous vote.

Commissioner Pesnell made a motion to extend the meeting to 7:30 pm. Commissioner McKnight seconded the motion. The motion passed by unanimous vote.

Commissioner McKnight made a motion to direct City Staff to coordinate a conversation with the City Attorney and invite some of the Planning Commissioners who can attend to participate in that discussion regarding having the LUCSs returned from the State. Commissioner Ziegler seconded the motion. The motion passed with a unanimous vote.

Following discussion, it was generally agreed that further action by the Planning Commission would depend upon the outcome of Staff's conversations with the State and the City Attorney.

11. ADJOURNMENT

Commissioner McKnight made a motion to adjourn. Commissioner Pesnell seconded the motion. No vote was taken.

Chairman Allen adjourned the meeting at 7:20 pm.

APPROVED BY THE PLANNING COMMISSION ON THE 31st DAY OF OCTOBER 2017.

[Signed copy available at City Hall]

Bonnie Allen, Chairman

ATTEST:

[Signed copy available at City Hall]

Jamie Mills, City Administrator/Recorder