



**CITY COUNCIL MEETING MINUTES ~ APPROVED
SEPTEMBER 13, 2012 AT 7:00 PM**

City Hall ~ 82877 Spruce St., Westlake, OR

These proceedings of the Dunes City Council were recorded on tape 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

Council President Jamie Mills called the meeting of the Dunes City Council to order at 7:02 pm.

2. ROLL CALL

Roll Call was taken by Fred Hilden, City Recorder.

Present: Council President Jamie Mills, Councilor Troy Sathe, Councilor Richard Koehler, Councilor Dick Anderson and Councilor Ed Scarberry.

Absent and Excused: Mayor Rebecca Ruede and Councilor Duke Wells.

Also Present: City Recorder Fred Hilden and several citizens.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

Councilor Anderson made a motion to accept the agenda. Councilor Scarberry seconded the motion. The motion passed by unanimous vote.

5. CONSENT AGENDA

Councilor Anderson made a motion to approve the Consent Agenda. Councilor Scarberry seconded the motion. Council President Mills called for the question. Councilor Sathe pointed out that discussion should be permitted. Council President Mills agreed and called for discussion. Hearing none, she called for the question. The motion passed by unanimous vote.

6. ANNOUNCEMENTS / CORRESPONDENCE

Council President Mills read the announcements as presented on the agenda.

7. CITIZEN INPUT: NONE.

8. UNFINISHED/OLD BUSINESS

Siltcoos River Dam Portage.

Recorder Fred Hilden provided an update regarding the Siltcoos River dam portage indicating that the bottom of the kayak slide has rusted out and fallen off. He indicated that Ian Young, contractor with International Paper, had indicated he could acquire the materials and make the repairs for about \$6,000, but that IP either wanted it fixed or wanted it out as they did not want any liability. Discussion followed. **Councilor Sathe moved to table the matter until such time as information could be obtained from the State regarding whether repairs could be made during the salmonoid season. Councilor Koehler seconded the motion but requested it be amended to include that a scale drawing of what would be done be provided to the Council. Councilor Sathe agreed to amend the motion.** Further discussion followed. **The motion passed upon the following roll call vote: Aye: Councilors Sathe, Koehler and Anderson. Nay: Councilor Scarberry.**

City Hall Encroachment on Neighboring Property: City Recorder Fred Hilden provided an update regarding the encroachment of City Hall property on the property of the neighbors to the East. The matter is still being negotiated, but Mr. Hilden felt that the property owners would not be requesting compensation of any kind.

Ordinance No. 216, Amending the Master Road Plan: Councilor Sathe indicated he had not drafted the actual ordinance yet. Council President Mills indicated she had some questions and concerns as follows:

On page 9, Section 1.1, where did the motto come from? City Recorder Fred Hilden explained that Gary Baker, who wrote the Master Road Plan, picked it up from several documents that he had found. Mr. Hilden did not think it had ever been officially voted on but it has been around Dunes City for a long time. Council President Mills agreed the City should have a motto, but we have the sign behind us that says "A Nice Place to Live" and the website says something else. She expressed that it would be nice to have just one motto. Mr. Hilden explained that the Mayor was at the Road Commission meeting and she liked this motto, too. The motto in the Master Road Plan is the one being used on the website.

On page 21, Parkway Drive, between Boy Scout Road and Hilltop, is not listed as a minor collector, even though Buck Skin Bob's Camp, Big Annie Lane, and all those other roadways, are fed by it. Councilor Sathe explained that the road wasn't long enough to qualify the road as a minor collector.

On page 32, there is an asterisk next to the total newly revised program amount, but Council President Mills couldn't find any other reference to that asterisk. Councilor Sathe explained that the asterisk is there because the number is not final yet.

On page 37, Council President Mills asked what is meant by immediate profits when cities are not allowed to make a profit? Councilor Sathe explained that the Annual Considerations are basically just wish lists and will be expanded. He went on to say that this section is where there will be a list where we put the money we find, like grants, etc. Both Council President Mills and Council Koehler asked that some other term besides profits be used. Councilor Koehler also asked if the Master Road Plan would follow the CCI process. Coun-

cilor Sathe said no and explained the process the document had already been through so far and that it is not a land use document so a CCI is not needed.

On page 38, Council President Mills asked if the steps delineated would be changed under any revisions the Planning Commission is considering recommending for Chapter 155? Councilor Sathe explained that the Road Commission has been working with the Planning Commission every step of the way, so that no changes would be necessary.

On page 39, under Priorities, Council President Mills asked if Chapter 155 actually contains stronger language than what is used. Councilor Sathe explained that yes, it does, and reiterated that the Master Road Plan is just a plan and not to be considered Code.

On page 40, Council President Mills pointed out that the Council will need to ensure that the language under Chapter 32 does not conflict with the Master Road Plan language on page 40.

On page 41, Council President Mills indicated she could not support the provision to allow the Road Commission to declare public nuisances as it conflicts with the recommendation made by the City Attorney to avoid having non-elected, non-paid individuals passing judgment on others.

On page 47, under Bike Trail Benefits, there is a typo in the 6th bullet. It should read trails, not tails.

On page 52, Council President Mills asked if Dunes City actually has a sign inventory. Councilor Sathe said it was being compiled. Discussion on new sign requirements followed.

On page 58, Council President Mills asked if the Recorder could double check to make sure the provisions regarding the expenditures of funds conflicts with the terms of the City Charter.

On page 60, Council President Mills did not think it was necessary to include the Mayor under item 11 and asked how often would the Mayor actually tell the Director of Road what to do? Councilor Sathe said it has happened.

Council President Mills asked Councilor Sathe if the 2012 activities had been done. He indicated he would have the bids on Monday and then work could get started about three weeks from now.

Council President Mills pointed out that at this moment in time, the Road Commission does not have the authority to take some of the actions that the Master Road Plan says they will do, so she has made a note to herself to make sure the draft language to change Chapter 32 will include those authorities. Those were all of her questions and concerns.

No other council members had questions for Councilor Sathe. Council President Mills thanked Councilor Sathe for all of the hard work he and the Road Commission had done. Councilor Sathe said he would have the ordinance ready at the next council meeting.

New Web Site Update: Councilor Anderson requested that this item be moved under his Committee Report. No one disagreed.

9. NEW BUSINESS

Title III – Public Contracting Ordinance. Council President Mills explained the need to update Dunes City's Public Contracting law because the Attorney General and legislature had made changes to state law and rules and cities must change their codes to comply. The doc-

uments before the Council this evening are a Resolution and an Ordinance to effect the changes necessary to bring Dunes City's public contracting code in compliance with new state law and rules and regulations. Council President Mills explained that the biggest difference she can see is that cities now have to adopt rules, so the resolution adopts the model rules. City Recorder Fred Hilden pointed out that there is a process for public hearing for adoption of this resolution and ordinance and a handbook that explains how it is to be done. He is seeking action from the Council authorizing and directing him to move forward with preparing the ordinance and resolution and appropriate notices of hearing. Councilor Sathe asked if the Ordinance Review Committee wrote the document. Councilor Mills said no. Councilor Sathe asked why this was not brought before the Road Commission, since it is the only one it affects. Council President Mills explained that the City Attorney wrote a letter to the City back in January or February last year explaining that they would prepare the changes for a set fee. The City Council, at that time, voted to ask the City Attorney to do that. This is that document. Councilor Sathe asked the City Recorder if it affected anything they (the Road Commission) had going on now. The Recorder responded no.

Councilor Sathe moved to put the matter on the next City Council agenda. Councilor Scarberry seconded the motion. Discussion followed with Council President Mills stating she would suggest the motion be changed to place it on the City Council agenda as soon as possible because she had not had a chance to review the handbook to find out what the notice requirements were, and staff may need more time. **Councilor Sathe agreed to amend his motion to say to instruct staff to prepare the resolution and ordinance, assign numbers, and put it on the City Council agenda for further consideration as soon as possible. Councilor Scarberry agreed with the amendment of his second. The motion passed by unanimous vote.**

Lien on Property at 5279 Hilltop Drive: City Recorder Fred Hilden provided background information on this issue to the Council.

Councilor Koehler asked what the total amount due is. City Recorder Fred Hilden indicated he would have to research that, because \$500 a day since the date of placement of the lien, together with interest, would be quite a substantial sum. Councilor Koehler went on to ask when the Council voted to agree to the offer of settlement. The Recorder stated May 10, 2007.

Councilor Sathe stated that if the homeowners are willing to pay \$10,000 and the costs, that that would be in the best interest of the City, because we didn't have a municipal judge at the time this was done.

Council President Mills asked if there were further questions of the City Recorder before we allow public comment. There were none.

Council President Mills invited Gloria Smith and John Kastedai to come forward, identify themselves, and state whether or not they are a Dunes City residents.

John Khastedai: Mr. Khastedai stated: “My name is John Khastedai and I am not a Dunes City resident, except I own this property which is not liveable. We were residents years ago and that is how we found out about this property.” Mr. Khastedai read his letter into the record. Mr. Khastedai then moved to the letter from LCOG dated May 15, 2007, which described the terms upon which Dunes City would agree to lift the lien. Mr. Khastedai stated he and Gloria Smith thought the offer would remain good until paid. They didn’t have a buyer, so they put the letter away and didn’t do anything, but they thought the offer was still good. Now they do have a buyer, so this has to be resolved. He stated that they have done all of the rest of the requirements in the letter and now are down to the payment part. When they left the meeting that night, they understood that it would be \$5,000 total because they were selling the unit as one. They even asked Gary Darnielle to clarify that and he did. They are not making any money on this property and it is a hardship to pay \$10,000, but the Council’s ruling is Council’s ruling. They are just hoping the City Council will have some compassion. The nuisance is gone and they inherited a mess.

Gloria Smith: Ms. Smith said their understanding was that if they sold them (the two parcels) together to one person as a lot, that it would be \$5,000. They would love the Council to forgive the debt all together, but if not, then if the Council could just minimize it to \$5,000, they would be very, very happy to do that. That’s all they had to say.

Council President Mills recognized the City Recorder who asked for clarification regarding the situation.

Councilor Sathe asked if the City were able to come up with say the \$5,000 plus \$1,000 for attorneys fees and staff, that’d be \$6,000, and since this lien was on the property before they even bought it and they are willing to negotiate, I think we should get this done. Councilor Sathe asked the Recorder of \$1,000 would cover it. The Recorder responded that further research would have to be done.

Council President Mills asked why wasn’t the lien settled at the time they acquired the property? City Recorder Hilden stated his understanding was that at the time of sale, a title search and lien search was not done. Mr. Khastedai and Ms. Smith agreed. Council President Mills then asked wouldn’t that mean they have an action against the title company? Ms. Smith indicated that they did a lien search in Florence, not in Dunes City. Mr. Khastedai stated it was a short sale, so no title insurance policy was issued. It was a situation that just happened – and they were in real estate and should have known better.

Councilor Scarberry stated he would seek just reimbursement of the City’s hard costs as he can’t see penalizing these folks for a comedy of errors that happened five years ago. If the City could recoup its costs, he would be happy.

Councilor Anderson asked if the property taxes have been paid all this time. Ms. Smith responded saying they have been paying just enough to keep it from foreclosure. Mr. Khastedai stated they had paid the property taxes so the City has received all that money.

Councilor Sathe indicated that if Councilor Scarberry would make the motion, he would second it.

Recorder Fred Hilden clarified that Dunes City does not have a property tax, so all the property taxes paid went to Lane County and not to Dunes City.

Councilor Koehler stated that liens don't go away; they stay with the property until paid. He expressed concern that so much information was distributed to the Council a few minutes ago and for him to research the history and fully understand the situation, he needs more time.

Councilor Koehler made a motion to table the matter to the October Council meeting. The motion failed for lack of a second.

Mr. Khastedai stated they are due to close soon, that is why they are here now. Councilor Koehler expressed his sympathy, but stated he did not feel adequately prepared to make a decision at this time.

Discussion took place regarding Dunes City's ability to assess and collect fines. City Recorder Hilden clarified that the City has the ability to assess fines and collect fines, it just cannot take court action to collect fines without a municipal judge. This is a legally filed lien and it is totally collectible.

Councilor Scarberry said that what it comes down to is: are we here to try to get as much money as we can for this comedy of errors? He went on to say it makes him nervous because he wasn't on the council seven years ago. He stated he could take this information and go read it all, but sometimes we have to make a decision and it sounds to him like it needs to be made tonight. **Councilor Scarberry moved to direct staff to determine the City's hard costs, add 3% interest since the beginning, and forgive the lien. Councilor Sathe seconded the motion.** Discussion followed with Councilor Koehler arguing to collect the entire lien amount because it was properly placed, and now we are zeroing it out. He doesn't feel comfortable with breaking the law. Councilor Sathe stated it would not be breaking the law because the Council has the right to enforce Code or not enforce Code. City Recorder Fred Hilden concurred. Councilor Scarberry pointed out that as Councilors we need to ask ourselves if we are here to help people or if we are here to grab as much as we can get. He stated he could see himself in this position because he's bought property over the years. He finished with his opinion that this is the right thing to do. **The motion passed on the following roll call vote: Aye: Councilors Sathe, Anderson and Scarberry. Nay: Councilor Koehler.**

Citizen Initiated Septic Initiative Petition: Councilor Sathe indicated he just wanted everyone to be aware that he intends to do an individual petition for a special election in March. Since there have been such issues on the septic question, he is going to have the initiative that Duke (Councilor Wells) was going to put forward and the initiative that Peter Howison was going to put forward. That way there should be no animosity because if they don't like either of those two, then they vote against them both and leave 203 in place. If they like 211A, they vote for Duke's and not for Peter's. If they like 210C, then they vote for Peter's and not

Duke's. That way it takes everything off the City and it will be done by a vote of the people and everyone will decide what they want.

Councilor Anderson stated that care should be taken not to make it so confusing that it is difficult for people to understand.

Councilor Anderson asked about the costs to the City. Councilor Sathe stated about \$10,000, but two prior efforts failed that would have put it on the ballot this election. He wants it to go to a vote of the people. He asserted that whether the City wants him to do this is irrelevant. This is an individual action and he is going to do it anyway.

Councilor Koehler expressed concern about not only the costs of the election, but the costs of a second LUBA action, and the costs of the water going bad in the City. He stated to Councilor Sathe that if he is going to take this action, that he please consider the costs to the City in the long run.

10. REPORTS

Mayor's Report: The Mayor being absent, Council President Mills stated there is no Mayor's report.

Communication & Education Committee Report: Councilor Anderson stated the Committee had finalized the newsletter and that they are working diligently on the City's website, which should be up and running soon.

Councilor Koehler stated that the drop down menu on the right hand side seems to flicker a lot and he has a question about advertising and whether it is legal for a City to sell advertising on it's website, especially to a Planning Commission member and would ask staff to look into it.

Conservation Committee Report: Councilor Anderson reported that there have been no complaints filed or requests for review made to the Conservation Committee, so no meeting was necessary.

Parks and Recreation Commission Report: Councilor Koehler reported there was no meeting in August. He stated that there were no responses to the published notices for the two signs discussed previously, so it looks like we will have to go outside the area.

Councilor Koehler also stated that Roberta Dalbeck, long time commissioner whose term expired, has applied for re-instatement as a commissioner. **Councilor Koehler moved to approve appointment of Roberta Dalbeck to the Parks and Recreation Commission for a three year term. Councilor Sathe seconded the motion. The motion passed unanimously.**

Emergency Services Report: Council President Mills stated that in the absence of Mr. Hilden, she attended the West Lane Emergency Operations Group meeting held on Monday, August 20th. She read her written report into the record.

Ordinance Review Committee Report: Councilor Mills reported that the Ordinance Review Committee did not meet in August but a meeting has been scheduled for Monday, September 10, at 10:00 a.m. at City Hall.

Water Quality Committee Report: Councilor Mills read her written Water Quality Committee Report into the record.

Weir Ad Hoc Committee Report: Councilor Mills read her written Weir Ad Hoc Committee Report into the record. Councilor Sathe asked the Council if they still want the Committee to investigate water usage or should we just wait until we find out if the permit extension is granted? Councilor Koehler stated he would try to find out what the end result is, and if you can't get there, don't start. Councilor Anderson asked what Mr. Stead's concern was. Councilor Mills tried to explain.

Road Commission Report: Councilor Sathe stated the Road Commission took the contractors around to show them the projects for them to bid on. He stated he expects bids to be in by Monday and all contractors indicated they expected work to begin three weeks from yesterday. The next Road Commission meeting will be Monday, September 17th.

Revenue Committee Report: Councilor Scarberry reported that the Committee did not meet in August, so we will try again in September.

Councilor Anderson asked what the status was of the triathlon people making a presentation.

City Recorder Fred Hilden reported that Brian Douglass was unavailable to attend this meeting, but would be available to make a presentation at the October meeting.

Community Center Report: Recorder Hilden reported that he and Councilor Wells had to replace the rope on the flag pole.

Site Review Committee Report: Council President Mills pointed out that the written Site Review Report was in the Council binders.

City Recorder/Planning Staff Report: City Recorder Fred Hilden read his written report into the record.

11. FOR THE GOOD OF THE ORDER

Councilor Scarberry stated that two Sundays ago he attended a meeting at Honeyman Park where Senator Wyden was there to talk about the tsunami debris that has been washing up. He relayed the discussions that took place. He explained that the only way Dunes City might be impacted is if it starts coming in in big chunks and blocks the river outlet so that water

backs up into the lake, but hopefully it will be broken up enough before it gets here that that won't happen.

Councilor Koehler added there may be a potential hazard in nuclear isotopes invested in metal, so picking up metal pieces is not recommended. Councilor Scarberry indicated that they do have Geiger counters up and down the coast, although he wasn't sure there was one locally.

Councilor Anderson reminded the Council that Dunes City's 50th anniversary is coming up in June and if we want to plan something, we need to get going. He believes it to be a great opportunity and he would like to see a work session to brainstorm so we don't let this opportunity pass.

Councilor Sathe brought up the letter the Council members received from a citizen who can't afford to inspect or pump their septic tank. He stated he believes it is very important, as long as 203 is in effect, that the City find the cheapest place to get the inspections and pumping done so that when these kind of situations come up, we can get them taken care of and put a legal lien on the property.

Councilor Mills stated she is moving forward to having a Haunted House in City Hall and requested to reserve the building on the Friday, Saturday and Sunday before Halloween. She announced that the proceeds from the event will go toward Water Quality Committee activities. She further clarified that this was her own individual group, who call themselves Friends of Dunes City, and not a Dunes City activity.

12. ADJOURNMENT

Councilor Anderson moved for adjournment. The motion was seconded by Councilor Sathe and passed unanimously. Council President Mills declared the meeting adjourned at 8:48 p.m.

APPROVED BY THE DUNES CITY COUNCIL ON THE 11th DAY OF OCTOBER 2012.

[Signed copy available at City Hall]

Rebecca Ruede, Mayor

ATTEST:

[Signed copy available at City Hall]

Fred Hilden, City Recorder

DUNES CITY
Communication & Education Committee
Report to City Council
September 13, 2012

The Communication and Education Committee has had numerous work sessions to prepare the newsletter for mailing that was mailed on September 5th. The Committee also researched material for our website. We plan to have the new website up and running very soon. We deeply appreciate the tireless work of our committee and staff. Scores of hours have been spent by our volunteers.

Our recent newsletter included an insert stating that our new website would be live on October 1st. Since we would like to have City Council approval of the new website before it goes live and it's not ready tonight, we will have to wait for approval until the October 11th City Council meeting. Consequently, I would like to make a motion to have the following statement placed at the top of our current website home page that reads, "Our new website is coming soon. Please check back on October 15th. Thank you!"

Thank you,
Councilor Dick Anderson

DUNES CITY ORDINANCE REVIEW COMMITTEE
REPORT TO CITY COUNCIL
SEPTEMBER, 2012

The Ordinance Review Committee did not meet in August, so there is no report. A meeting has been scheduled for Monday, September 10, 2012, at 10:00 a.m. at City Hall.

DUNES CITY WATER QUALITY COMMITTEE
REPORT TO CITY COUNCIL
SEPTEMBER, 2012

The Water Quality Committee met on August 8th. The water testers reported that Woahink is continuing to look green with Secchi readings as low as 10 feet. Siltcoos is still testing clear, with a disk reading of 8 feet.

Steve Hager is attending the monthly TMDL Stakeholder meetings being held in Newport, however, he was not at the meeting to give us an update.

The signs have been received and two are posted on opposite ends of the three bridges over Woahink Lake. Jamie will be presenting three signs to Honeyman for installation in the park and Committee members will assist Jamie in getting permission to post other signs on private property.

The next meeting will be September 12 at 3:00 p.m.

DUNES CITY
WEIR TASK FORCE REPORT
September, 2012

The Weir Task Force Committee met on August 15, 2012 at City Hall. An update and review of work done to date was discussed. Jamie has almost completed the work she was doing to identify the parcels where she cannot find a permitted drinking water source. John Stead was present and expressed concerns with the Committee “kicking over garbage cans” trying to buy trouble and working outside the purposes for which the committee was formed. Mr. Stead suggested the committee review why it was created and stick to correcting ownership issues and other problems with the outlet control structure.

The next meeting of the weir committee has been set for Wednesday, September 12th at 10:00 a.m.

City Recorder / Planning Report to City Council
September 13, 2012 ~ Prepared by Fred Hilden

August permits totaled seven, including yet another new residence on Kiechle Arm Road. This marks our fourth new home this calendar year and our ninth new home in the last twelve months. Copies of permits to Lane County and Lane Council of Governments are on schedule.

As directed at the August 9th City Council meeting, the draft contract for the Oregon Dunes Triathlon was forwarded to the City Attorney for review. Brian Douglass had a scheduling conflict for our September 13th Council meeting, but will be available to make a presentation on behalf of Smith Rock Race Group at our October 11th Council meeting.

I began work on our 2011/2012 financial review in August and the information required by our auditor should be completed during September. The Budget Committee will have its first quarterly review of the fiscal year 2012/2013 budget versus actual at the end of October.

The Dunes City Elections Office is now closed for the November 2012 General Election. I completed and submitted our candidate filing information with Lane County Elections on September 5th, one day before the deadline. The final candidate filing information includes one candidate for Mayor and three candidates for the three vacant City Council positions.

Respectfully submitted,

Fred Hilden
City Recorder