



**CITY COUNCIL MEETING MINUTES ~ APPROVED
OCTOBER 10, 2013 AT 7:00 PM**

City Hall ~ 82877 Spruce St., Westlake, OR

The proceedings of the Dunes City Council were recorded digitally 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 meeting of the Dunes City Council to order at 7:02 pm.

2. ROLL CALL

Roll Call was taken by City Administrator Fred Hilden.

Present: Mayor Rebecca Ruede, Councilor Maurice Sanders, Councilor Duke Wells, and Councilor Ed Scarberry.

Absent and Excused: Council President Jamie Mills and Councilor Dick Anderson.

Also Present: City Administrator Fred Hilden, Administrative Assistant Renee Green, Road Secretary Laurale Lorentzen and several citizens.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

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

5. CONSENT AGENDA

Councilor Sanders made a motion to approve the Consent Agenda including amended Bills of the Session. Councilor Wells seconded the motion. The motion passed by unanimous vote.

6. ANNOUNCEMENTS / CORRESPONDENCE

A. The Dunes City Budget Committee will hold its first quarterly review of the 2013-2014 Fiscal Year Budget versus Actual on Tuesday, October 29, 2013 at 4:00 pm. After discussing a request to reschedule the date to October 28, 2013 at 4:00 pm, City Administrator Hilden concurred to follow-up with a confirming date.

- B. Volunteers are needed to fill two Budget Committee openings, one Parks & Recreation Commission opening, three Water Quality Committee openings and one Water Tester for Siltcoos Lake.

Mayor Ruede announced that the Soroptimist International of Florence is holding their annual rose sale fundraiser with a delivery date of November 5, 2013. Interested parties should contact Marilyn Miller at 541-999-4795.

Mayor Ruede made a statement that the public record was closed on September 19, 2013 at 4:00 pm regarding Ordinance No. 223, amending the Citizen Involvement Provisions of the Comprehensive Plan, and State law prohibits us from considering additional testimony on this matter, so Citizen Input tonight will be limited to items unrelated to Ordinance No. 223.

7. CITIZEN INPUT

Mr. John Stead had prepared a written statement regarding his concerns about Ordinance No. 223, but because state law prohibits the Council from considering additional testimony after closure of the public record on September 19, 2013, Mr. Stead's written testimony was not accepted for consideration by the Council. City Administrator Hilden stated he would take a copy for the City's record, but explained that it will not be disclosed to either the Planning Commission or the City Council. Mayor Ruede stated that she wanted to assure Mr. Stead that the Council and the Planning Commission have read and considered his previous input regarding this issue.

Mr. Lee Riechel gave a short history of his life in Dunes City since 1994 when he and his wife bought property here. After 17 years of serving and supporting the City in various capacities, Mr. Riechel tendered his resignation from the Planning Commission, and the Conservation Committee and wished the City Council well in its future endeavors. Mayor Ruede gave a special thank you on behalf of herself and the Council to Mr. Riechel and his wife Patricia for their support to the City of Dunes City.

8. UNFINISHED / OLD BUSINESS

A. Planning Commission Staff Report (F. Hilden)

City Administrator Hilden read a Planning staff report to City Council. The report is a synopsis of Ordinance No. 223 amending the Citizen Involvement Provisions of the Comprehensive Plan and the Planning Commission's recommendation to the City Council to adopt Option 1, naming the Planning Commission as the CCI for Dunes City. It also included a 3-page excerpt from the Dunes City Planning Commission draft minutes from the September 26, 2013 meeting.

City Administrator Hilden suggested that Planning Commission Chairman George Burke review the Planning Commission's September 26, 2013 minutes with City Council.

Chairman Burke stated that the main points of the meeting are at the bottom of page 2 of 3 of the Planning Commission meeting minutes excerpt. Chairman Burke stated that the Planning Commission felt that Option 2 was not good government based on the reason that the only goal/duty of the CCI is to administer the City Involvement Program for the City. He added that the Planning Commission felt that some people showing up would have no idea what the CCI was, even though they might earnestly want to be involved, but with different people showing up throughout the years, the result would be no continuity from one CCI meeting to the next. He added that the state requires that the City Council to appoint and swear-in a diverse group of citizens because they are a decision-making body to uphold the Constitution of the United States. He further added another opinion of the Planning Commission was that if the Council did not elect to have the Planning Commission as the CCI, then City Council should appoint a 3-man board composed of citizens who are knowledgeable of the matters at hand. The reason they opposed Option 2 was that they felt this was their duty as a Planning Commission. He also included the fact that this was a very difficult decision for the Planning Commission to make. No questions ensued from the Council regarding Chairman Burke's review.

B. Deliberation and Decision regarding Ordinance No. 223
Amending the Comprehensive Plan regarding Goal 1

City Administrator Hilden reported that all of the testimony received by the City after the public hearing of September 12, 2013 and before the record closed on September 19, 2013 at 4:00 pm were included in the Council packets. Mayor Ruede confirmed with the Council members present, that all had reviewed the entire record in their packets.

Councilor Sanders asked to clarify his thoughts and understanding of Ordinance No. 223 and requested that Council give him feedback if flaws are uncovered in his logic. He stated that, "After reading and rereading all of the material in the record for the deliberation by the council on the Proposal to Revise the Comprehensive Plan Provisions Regarding Statewide Planning Goal 1, Citizen Involvement and in listening to the public testimony and other comments from the public, it was apparent this would be a difficult public policy decision, but not an impossible one.

The question is whether the council should make the changes recommended by the planning commission to the comprehensive plan in regard to its citizen involvement program, make additions or deletions to the changes recommended by the planning commission, select an alternative other than as recommended by the planning commission, or make no changes to the current Comp Plan language under discussion.

One of the comments made at the beginning of the CCI meeting of May 15, 2013 in regard to "What worries you when the city is considering changes to its citizen involvement program" was on the topic of citizen involvement in the response, "Not allowing citizens to be heard, having a program that only provides one side to be presented, having a process dominated by one group because they lobby and bring all their friends, neighbors, etc..."

At that same meeting some of the comments from various people in response to “what is not working in Dunes City’s current citizen involvement program or what would not work in a citizen involvement program” were “What did not work in my opinion was having a meeting where everyone got to vote and having another meeting where a different group came and counteracted that vote. [It] drew [the] process out longer than needed to be. In my experience no decision was reached as a result” and “What we don’t have now is enough public energy to come out in large numbers to support the city to do what the city really needs right now.” Additionally another comment was, “I don’t think that voting at the meetings is productive. The purpose of meeting is to communicate: Citizen’s to decisions makers. Voting creates winners and losers and losers are not heard.”

While not on topic with the question, an interesting comment offered was, “Builds divisions – the city is floundering on divisions – consequences of voting. No voting would go a long way to bring us together.”

The issue before this council is about improving and enhancing citizen-input in the CCI so the decision-making bodies are able to make the best possible decision with all input available. I agree with the citizen whose comment was, “Getting fair government should not be based upon an attendance game”. I heard from another citizen that they did not attend CCI meetings because they did not want to bear the brunt of “intimidation tactics” at work.

In our situation in Dunes City, voting in the CCI has had adverse consequences in silencing the voices of input that differs from the majority in attendance, in dissuading some citizens from even participating, and has on occasion led to conflicting results or indecision meeting to meeting. These are the results of the current comprehensive plan’s CCI language - It does not enhance or improve citizen involvement, but, in my judgment, it has the opposite chilling effect. This is not achieving the common good. It is a disservice to all of the citizens in our community if we, as councilors, do not correct this situation.

There are other issues present as well. One of the persons testifying at the City Council Public Hearing on September 12, 2013 strongly advocated retaining the current Comprehensive Plan language, including having councilors and commissioners attend and participate in CCI meetings. The focus of his comment was clear in his opinion there is no evidence that Comprehensive Plan Policy A1 needs amendment at this time. This contributor’s comments ignores the input from Mr. Dave Perry of DLCD in his letter to Ms. Cameron LaFollette of ORCA when he said, “However, it is not appropriate for a planning commission or council member to formally participate in the CCI process, since they will have an official role in making a recommendation or to ultimately decide the matter. It may even be problematic for the PC (planning commissioner) or council member to attend the CCI meeting, because they are to remain unbiased in their decision making and the CCI forum provides ample opportunity for those officials to be influenced by those for or against the proposed changes.” Additionally this is the same information that the City Attorney provided at the previous meeting stating that, in essence, it is not a good idea either and may be at times violation of state law. These factors contradict that citizen’s summary comment of, “If it isn’t broken, don’t fix it”. In this analysis from the

input received, it is broken.

Another citizen testifying at the public hearing asked if the city has any evidence of a lack of citizen involvement. The agenda for this evening's meeting, as has been discussed in prior city council meetings, announces volunteers being needed. Tonight's agenda identifies 7 volunteer positions are needed to be filled. Additionally we have had a vacancy on the city council for nearly 9 months where no person has submitted an application to date for the vacant city councilor position that I am aware for consideration by the council. We are also anticipating an imminent vacancy to occur on the Planning Commission and Conservation Committee, as well as one additional vacancy on the budget committee within the next two months. From my perspective these facts alone would strongly support making the Planning Commission the CCI as in Option 1 on this point alone.

Another citizen at the public hearing who is against adoption of Ordinance 223 closed his comments with, "That somebody could alter the Comp Plan for good reason and after public debate seems perfectly reasonable. I have no objection to that." His argument in opposition was there was no good reason to change the comp plan and there was no public debate. I disagree with his conclusion. Good cause exists for amending the comp plan regarding citizen involvement. Public input was obtained. Public debate occurred - the Planning Commission studied the issue, held a public hearing, deliberated the question, and forwarded their recommendation to the council; two times in fact. The City Council held a public hearing and we are now deliberating the issue before us. We are now expected to apply our judgment in the open public forum and make a decision. The process that has occurred has met this citizen's expectations as he stated in his comments in the public hearing before the council.

The Oregon Coastal Alliance (ORCA) brought up their issue saying the process has been flawed with the process involving the PAPA amending the CCI to DLCD. From what I have learned over these past 9-10 months as a Councilor it appears that the process is not flawed.

Option 2 would not require any PAPA notice to DLCD as the Planning Commission would not be designated the CCI, so if that Option is adopted, ORCA's argument becomes moot. If Option 1 is adopted and appealed to LUBA on that basis, I don't know how LUBA may view it. I never try to guess what a judge, arbitrator, or jury may do in its determination of fact. But, what if the process was found to be flawed as viewed by ORCA, would it only be a technical flaw and a minor one that caused no harm? The intent of the process was met. We have received a massive amount of public input over this entire process on the issues present, so what public input would change or what outcome at the Planning Commission or City Council would change if it was remanded back on this point? I think none. However, again, I will state for the record it appears to me that the process is not flawed.

I also take exception to ORCA's Executive Director's comments that, "In reality there is a lack of concern by Dunes City officials with any meaningful public engagement in proposed changes to public involvement in the future." The reality is the deep concern I do

have requires that I must do what I am able to insure all input is received from all citizens that choose to give it, whether in attendance at a meeting or not, without their voices being silenced, and without they being intimidated or dissuaded. While I cannot speak for anyone else, I feel all Dunes City officials share that deep concern as well.

Mr. Stead's proposed ordinance, which was not recommended by the Planning Commission, does not address the basic problems that currently exist as I see it and allowing the current language in the comp plan to remain is problematic – neither is an option from my perspective.

I believe a strong argument has been made for a change in the comprehensive plan as it deals with citizen involvement. I have also concluded that the CCI should deal with promoting and enhancing the citizen involvement program. While the public testimony resonated with having a CCI with membership granted to those who show up at the meeting, from the input and comments received I am led to believe there would not be much participation in the CCI if the scope of the CCI is limited to what the state guidelines are for a CCI. Citizens should be provided opportunity to give input in the ad hoc Citizen Advisory Committees as they are in the hearing processes at the Planning Commission and City Council meetings. In my opinion the city would be best served with ad hoc Citizen Advisory Committees where all input can be brought forward to the governing bodies.

Either option works; in my opinion Option 1 works better than Option 2. The only benefit to Option 2 is if is adopted it would not require the city to seek a recommendation from DLCD through its CIAC to make the Planning Commission the CCI, whether or not a recommendation is received. If this council adopts Option 2, within a year the CCI could review the citizen involvement program to determine its participation and effectiveness. Obviously if there is significantly reduced or ineffective citizen involvement as expected with is role restricted to what the state guidelines are for a CCI, then the council could revisit this issue and look at Option 1.

I am looking forward to hearing the input from the other council members for my final considerations.”

Councilor Wells commented that he did not feel comfortable with Councilors being present at the CCI meetings, but is very comfortable with our Planning Commission being in charge of the CCI.

Councilor Scarberry stated that he agrees with about 99% of Councilor Sanders' report. He added that what confuses him the most is that he has never seen a lack of anyone listening to citizen input. He added that he is ready to vote and go with the Planning Commission's suggestion regarding Option 1.

Mayor Ruede lauded the Planning Commission, the Ordinance Review Committee, Planning Chairman Burke and former Vice-Chairman Riechel for their diligent dedication and time spent dissecting this issue.

Further discussions and concerns transpired in order to come to a resolution whether to move forward and vote on this issue now, or wait until Council President Mills and Councilor Anderson were present. It was determined that since Council President Mills would not be present until December the Council would move forward.

Councilor Wells made a motion that the Council approves the Planning Commission's recommendation to adopt Ordinance No. 223, Option 1. Councilor Scarberry seconded the motion. The motion passed by unanimous vote.

C. Determination of 2013 – 2063 Time Capsule Contents

Mayor Ruede confirmed with City Administrator Hilden that the Council previously agreed to conduct a ceremony to close the time capsule for another 50 years at the Christmas potluck in December. She suggested including a t-shirt from Dunes City's first triathlon. There were no other suggestions at this time.

D. Oregon Dunes Triathlon & Duathlon Report (F. Hilden)

City Administrator Hilden reported that City Council, through three special sessions, has made a decision to move forward planning for a second Triathlon and Duathlon event on May 10, 2014 and seeking a new Event Production Company to assist us with that event. He went on to point out that next week a notice will be in the paper requesting proposals for a new Event Production Company. Renee Green provided an exact countdown for the 2nd annual event as 211 days, 12 hours, 11 minutes and 5 seconds. City Administrator Hilden reported that as of last Friday, 34 of the 53 participant t-shirts were mailed and the balance are scheduled to be mailed next week. He also read the letter enclosed with the t-shirts. Mayor Ruede mentioned that if any citizens are interested in the details regarding the recent special session meetings regarding this issue, they are welcome to review the minutes from those meetings.

9. New Business

A. Water Quality Committee Appointment

One Applicant – Three Openings (2 terms expire 12/31/2015, 1 term expires 12/31/2013)

Bonnie Allen stated that she is a new resident to Dunes City, loves water, is willing to learn and would like to be of service to the City of Dunes City in the capacity of a Water Quality Committee member. Mayor Ruede recommended the Council appoint Bonnie Allen to the Water Quality Committee.

Councilor Sanders made a motion to appoint Bonnie Allen as a member of the Water Quality Committee. Councilor Scarberry seconded the motion. The motion passed by unanimous vote.

10. REPORTS

Mayor's Report: Mayor Ruede had no report.

Communication & Education Committee Report: Council President Mills was absent.

Ordinance Review Committee Report: Council President Mills was absent.

Water Quality Committee Report: Council President Mills was absent.

Community Center Report: Councilor Wells stated he had no report.

Conservation Committee Report: Councilor Anderson was absent.

Parks & Recreation Commission Report: Councilor Scarberry reported there was no meeting.

Road Commission Report: Councilor Sanders read his report into the record.

Emergency Services Report: City Administrator Hilden read his report into the record.

City Administrator / Recorder / Planning Staff Report: City Administrator Hilden read his report into the record. He also distributed and read a 1-page Planning Staff Report to City Council summarizing the actions that are scheduled to take place following Vice Chairman Lee Riechels' resignation from the Planning Commission. Mayor Ruede asked to include this item on next month's Agenda. [To be included on December 12, 2013 Agenda]

11. FOR THE GOOD OF THE ORDER

Councilor Sanders recommended that our new City Administrator establish the same covenant to the community as the City Council (by an oath to the community and the Council to support and defend the Constitution of the State of Oregon and the Ordinances of the City of Dunes City). He asked that this item be included in next month's Agenda for discussion. [To be included on December 12, 2013 Agenda]

12. ADJOURNMENT

Councilor Sanders made a motion for adjournment. Councilor Scarberry seconded the motion. Mayor Ruede adjourned the meeting at 8:07 pm.

APPROVED BY THE DUNES CITY COUNCIL ON THE 14th DAY OF NOVEMBER 2013

[Signed copy available at City Hall]

Rebecca Ruede, Mayor

ATTEST:

[Signed copy available at City Hall]

Fred Hilden, City Recorder