



**CITY COUNCIL MEETING MINUTES ~ APPROVED  
SEPTEMBER 11, 2014 AT 7:00 PM**

City Hall ~ 82877 Spruce St., Westlake, OR

These proceedings of the Dunes City Council were recorded and are on file at Dunes City Hall. Upon approval by the City Council, these minutes will be available online at [www.DunesCity.com](http://www.DunesCity.com)

**1. CALL TO ORDER**

Mayor Rebecca Ruede called the meeting of the Dunes City Council to order at 7:02 pm and noted that Councilor Anderson was not present but was expected shortly.

**2. ROLL CALL**

Roll Call was taken by City Administrator/Recorder Fred Hilden.

**Present:** Mayor Rebecca Ruede, Council President Jamie Mills, Councilor Ed Scarberry, Councilor Maurice Sanders, Councilor Duke Wells, and Councilor Sheldon Meyer. Councilor Anderson arrived at about 8:15 pm.

**Also Present:** City Administrator/Recorder Fred Hilden, Administrative Assistant Renee Green, Administrative Assistant Rapunzel Oberholtzer, Oregon Community Foundation representative Roger McCorkle, Dunes City residents John Stead, Susie Navetta and David Bellemore, Planning Commission Chairman George Burke, Planning Commission applicant Bonnie Allen, and several other citizens.

**3. PLEDGE OF ALLEGIANCE**

All who were present stood for the Pledge of Allegiance and a moment of silence in honor of Patriot Day.

**4. APPROVAL OF THE AGENDA**

**Council President Mills made a motion to amend the Agenda by moving the presentation by Mr. McCorkle from item 8A to item 6D of Announcements and Correspondence. Councilor Scarberry seconded the motion. The motion passed by unanimous vote.**

**Council President Mills made a motion to approve the Agenda as amended. Councilor Scarberry seconded the motion. The motion passed by unanimous vote.**

**5. CONSENT AGENDA**

Councilor Sanders noted that he was not present at last month's Council meeting and felt that he could not vote to approve the minutes from that meeting on August 14. City Administra-

tor/Recorder Hilden suggested that Councilors vote on the minutes separately from the Bills of the Session and Receipts of the Session.

**Councilor Meyer made a motion to approve the minutes of the August 14 Council meeting as presented. Councilor Wells seconded the motion. The motion passed with four votes in favor, none opposed, and one abstention (Sanders).**

**Councilor Scarberry made a motion to approve the Bills of the Session and the Receipts of the Session as presented. Council President Mills seconded the motion. The motion passed by unanimous vote.**

Council President Mills suggested adding Best in the West Events and the Oregon Dunes Triathlon and Duathlon to the Agenda for discussion at future meetings. Mayor Ruede agreed.

## 6. ANNOUNCEMENTS / CORRESPONDENCE

Mayor Ruede announced that Councilor Anderson has a second great grandchild, Lila May Mitchell, born recently. Mayor Ruede proceeded to read aloud the list of announcements from the meeting Agenda.

- A. Election filing closed on August 26<sup>th</sup> with Duke Wells and Sheldon Meyer filing for City Council and Rebecca Ruede filing for Mayor.
- B. Volunteers are needed to fill one Planning Commission opening, one Road Commission opening, three Budget Committee openings, one Parks and Recreation Committee opening, and one Water Tester for Siltcoos Lake.
- C. Dunes City Artists of the Month are Students from Siuslaw High School and Dunes City resident Don Durland.
- D. Mayor Ruede recognized Roger McCorkle, former Mayor of Florence and currently representing the Oregon Community Foundation. Mr. McCorkle explained that he served on the Southern Willamette Leadership Council, one of several regional Leadership Councils in the State. Mr. McCorkle went on to explain that the Oregon Community Foundation (OCF) was founded 40 years ago, about the same time as the Western Lane Community Foundation (WLCF), and is a statewide foundation whereas WLCF is a local group that has aligned with OCF. OCF is one of the largest foundations in the country with about \$1.6 billion in assets and about \$63 million in endowments annually to individuals, non-profits, scholarship programs, etc.

Mr. McCorkle described how the OCF Board opted to celebrate its 40<sup>th</sup> Anniversary by looking to see if there were Oregon cities that had never received OCF grant money. There were thirteen cities that met the OCF criteria to receive a grant, with Dunes City being one of them—Dunes City is largest of the thirteen cities and Lone Rock is the smallest with a population of about 20. Mr. McCorkle distributed copies of an OCF pamphlet with details about how to apply for OCF grants and went on to suggest that if there was anyone

present at the meeting who is involved in a non-profit organization, they should find out more about OCF and how to apply for grant funding.

On behalf of OCF, Mr. McCorkle presented Mayor Ruede with a certificate commemorating the \$5,000 grant the City received from the Val Taber Memorial Fund of OCF. Mayor Ruede explained that the City Council was still discussing how to use the grant money which will be in next year's budget for allocation; it will be used to benefit the City, as stipulated in the OCF letter that accompanied the grant. She thanked Mr. McCorkle for taking time to come to the meeting and make his presentation.

## 7. CITIZEN INPUT

Mayor Ruede recognized Mr. John Stead, who signed up to present citizen input, and asked him to step up to the microphone. Mr. Stead explained that he was present to share a letter he wrote to the Mayor and the City Council on September 2<sup>nd</sup> about the disbandment of the Citizen Advisory Committee (CAC). Mr. Stead proceeded to read his letter aloud.

*Dear Mayor Ruede and Members of the City Council,*

*The CAC's disbandment by the Planning Commission on August 26<sup>th</sup> is troubling as it suggests a potential disregard for the City's effectuation of Goal 1, Citizen Involvement. The purpose of this letter is to request that the Council take action resulting in the CAC's reinstatement, and assuring the availability of the proposed changes to Ordinance 203.*

*At its June 12<sup>th</sup> meeting the Council directed, "...the Planning Commission to convene a CAC to conduct a review of Ordinance 203...for the purposes of making a recommendation for language changes, if any." Subsequently, on July 24<sup>th</sup> the Planning Commission appointed Bonnie Allen, Mary Jo Leach, Susie Navetta, Denise Sanders, and John Stead and charged them, as stated in the Public Notice, "The CAC will provide a recommendation on proposed changes to Dunes City's Ordinance No. 203 regarding Septic Maintenance."*

Mr. Stead paused to point out to the Councilors that the Planning Commission's Public Notice instruction was different from the Council's instruction to the Planning Commission. He continued to read from his letter.

*Copies of the Citizen Advisory Committee Procedures Responsibilities and Expectations and Ordinances 210A (Proposed) and 211A (Adopted and remanded by LUBA) were provided as information.*

### *1. Proposed Changes to Ordinance 203 Are Not Available:*

*The City's Citizen Involvement Policy dictates that the Planning Commission appoint a CAC to "...provide citizen input on **proposed changes** to the Comprehensive Plan and/or land use regulations." And, City Staff is to, "work with the CAC members to determine a meeting schedule and to publicize the meeting(s) with an **accurate description of the proposed change** to the City's Comprehensive Plan and/or land use regulations." In keeping with the City's Goal 1, Comprehensive Plan requirement that, "CACs will make recommendations to the PC specifically regarding the **proposed change** to the...land use regulation for which the CAC was created."*

*During its first and only meeting on August 13<sup>th</sup>, the CAC reviewed its purpose and searched for proposed change(s) to Ordinance 203 for review. When a document, identifying proposed changes could not be found, the CAC suspended further meetings pending assistance from the Planning Commission.*

**2. CAC Disbandment Action:**

*As CAC Chairman, I attended the August 26<sup>th</sup> Planning Commission meeting along with Bonnie Allen. We were present as under New Business was the following agenda item: “Clarify and Reassign CAC Task Re: Ord. No. 203 Septic Maintenance...**Action Item**”*

*Unfortunately, the above item was not discussed, subverting even the smallest opening for dialog/compromise. Rather, I was repeatedly asked to call a meeting of the CAC—with [my] full knowledge that the Planning Commission had no interest in pursuing the CAC’s request for assistance. As CAC Chairman, respect for the Committee’s decision to suspend meeting until help arrived was my first priority.*

*The following Oregon statute explains it best:*

*ORS 197.010 Policy. The Legislative Assembly declares that: (1) In order to ensure the highest possible level of livability in Oregon, it is necessary to provide for properly prepared and coordinated comprehensive plans for cities and counties, regional areas and the state as a whole. These comprehensive plans:*

- c) Shall be the basis for more specific rules and land use regulations which implement the policies expressed through the comprehensive plans; and*
- d) Shall be prepared to assure that all public actions are consistent and coordinated with the policies expressed through the comprehensive plans;*

*I urge the Council to correct this grievous error, and I stand ready to assist in the important work that remains to be done.*

*Respectfully Submitted,*

*John Stead*

*Chairman, Dunes City’s CAC*

Mayor Ruede thanked Mr. Stead for attending the meeting and noted that she and the Councilors received copies of his letter shortly after he delivered it. She went on to explain that she and the Councilors also received and reviewed copies of the minutes from the August 13<sup>th</sup> CAC meeting. She again thanked Mr. Stead for his input and noted that later in the meeting City Administrator/Recorder Hilden would provide a report on the CAC.

Mayor Ruede recognized Dunes City resident Susie Navetta and David Bellemore who also signed up to give comments. Both expressed their feeling that Mr. Stead’s letter captured the comments they had in mind. Mayor Ruede thanked them both for attending the meeting and invited them to stay to hear further discussion.

**8. UNFINISHED/OLD BUSINESS**

**A. Ad Hoc Committee – Property Disposition/Acquisition**

City Administrator/Recorder Hilden noted that due to his absence from the office for surgery he and Councilor Anderson had not met to discuss this issue. Mayor Ruede suggested that the matter be postponed until the next Council meeting. (28:48)

## B. Medical Marijuana Dispensary Moratorium – Draft Ordinance

Mayor Ruede asked Council President Mills to provide an update. Council President Mills explained that the City had received correspondence from Lauren Sommers (City Attorney) pertaining to a proposed ordinance. The Ordinance Review Committee will review the letter, consider the City Attorney's comments and make recommendations to the Council.

Council President Mills noted that a copy of the attorney's letter was provided to the Councilors; if Councilors wished to discuss the contents during this meeting, their comments would be helpful to the Ordinance Review Committee.

Councilor Sanders asked to clarify whether or not the letter was privileged and confidential or whether it could be discussed in open session. City Administrator/Recorder Hilden noted that it was not privileged information.

Mayor Ruede asked for discussion. Councilor Sanders referred to paragraph three of the attorney's letter about regulating dispensaries in the vicinity of hotels and read it aloud: *"I understand that the City wants to effectively prohibit dispensaries by regulating them to the point that there is really nowhere they can locate within the City. If that is the City's intent, a land use ordinance may not be the best option. Even if the conditions placed on the use would prohibit it now, things may change (for example, a bunch of hotels go out of business) and a dispensary may be able to locate in the City in the future (because all the hotels went out of business, the dispensary location is no longer within 1,000 feet of a hotel)."*

He went on to explain that while he understands the logic presented by the attorney, the idea that he presented to the Council a couple of months ago was to prohibit dispensaries around motels and RV parks which are considered transient housing and may include children residents. His idea, he added, was to protect those areas now and in the future, then after other cities have weighed in on this matter, to determine possible next steps. Councilor Sanders noted that he appreciated the attorney's comments but, in his opinion, prohibiting dispensaries within 1,000 feet of a transient lodging facility was the option the City should consider at this point in time.

Mayor Ruede asked if there was further discussion. Councilor Meyer agreed with Councilor Sanders and noted that taking the action he is suggesting would be a starting place for the City and provide a window for the City to see examples of other cities' actions and results.

Mayor Ruede pointed out that in paragraph four of the attorney's letter is another suggestion and she read it aloud:

*"If the City is concerned about allowing dispensaries because they are illegal under federal law, the City could follow Medford's lead and require dispensaries (and other busi-*

*nesses) to get a business license from the City, but declare that the City will only issue business licenses to businesses that comply with all state, federal and local laws.”*

Councilor Sanders suggested that the Mayor read the next sentence because it was critically important. Mayor Ruede went on to read:

*“There is some risk of litigation with any of these options, but in my opinion, the only way to absolutely avoid litigation is let dispensaries locate in the City and the Council does not seem to want to do that.”*

Councilor Sanders pointed out that there is an initiative on the November ballot that could legalize recreational marijuana in Oregon, like in Washington and Colorado. He added that if the initiative passed, it could make this discussion moot.

There was some further discussion during which Council President Mills pointed out that Dunes City currently has a moratorium on dispensaries in place until next year. She noted that the current moratorium gives the City time to see whether the initiative passes and what the effects of it are, and she suggested that the City wait to take any immediate action on another ordinance.

Councilor Scarberry noted that he had mixed feelings about an outright ban or following the suggestions put forth by Councilor Sanders. He went on to note that the City could be open to lawsuits no matter what action it takes.

Following some further discussion which included comments about grow sites within City limits and the lack of citizen objection to the moratorium, it was agreed that the Council would revisit the issue during the November Council meeting after ballot measure results are known.

#### C. Comprehensive Plan Update – Current Organization vs Complete Revamp

Council President Mills summarized some of the discussion from last month’s meeting by explaining that while she was researching other cities’ comprehensive plans she found that Oregon City’s was the easiest to read and followed the Oregon Statewide Planning Goals. She went on to note if the Council agreed to revamp the City’s Comprehensive Plan, the Ordinance Review Committee would recommend following Oregon City’s. She pointed out that it would be a huge task to move the information in the current Plan to a new format and some people might be resistant to and wary of the format change. She added that if the Council agreed to change the format, the Ordinance Review Committee could provide a task list for the various committees and commissions to take on sections of the Plan.

Mayor Ruede asked for comments and noted that there might be an avenue for professional help to do the work. City Administrator/Recorder Hilden noted that Dunes City receives two small DLCD planning grants and is eligible for Transportation and Growth Management grants and Coastal Zone Management grants. He went on to suggest that if the Council opts to move forward, the City could pursue grant money and enlist the assistance

of the City Planner, Jacob Callister. He also noted that the current Plan was still in need of substantial updating.

There was some discussion about the City's current Plan format vs Oregon City's format and the complexity of dividing sections of the City's current Plan among various committees and commissions as suggested by the Ordinance Review Committee. Discussion moved on to the possibility of funding for professional assistance with this project. Councilor Sanders asked whether there were any estimates from LCOG for doing the work and there were not. There was also discussion about whether this project would require funding in next year's budget. Consensus was that City Administrator/Recorder Hilden and/or staff would look into potential costs and report back to the Council next month.

Mayor Ruede called for a break at 7:55 pm and reconvened the meeting at 8:03 pm.

## **9. NEW BUSINESS**

### **A. Septic Maintenance History and Status**

City Administrator/Recorder Hilden introduced his Dunes City Septic System Maintenance Status Report noting that he prepared the report for a presentation to the Woahink Lake Association's annual picnic last July.

City Administrator/Recorder Hilden opened his presentation with a brief history of the City's Septic System Maintenance Ordinances by explaining that the City's first Septic System Maintenance Ordinance No. 173 was adopted by the City Council on March 9<sup>th</sup> of 2006 and the second Septic System Maintenance Ordinance No. 203 was adopted by the City Council on January 14<sup>th</sup> of 2010. Ordinance No. 203 intended to close "the inspect without pumping" loophole in Ordinance No. 173. Both Ordinances listed the responsibilities of Dunes City and the responsibilities of homeowners. The key differences between the two Ordinances are: 1) Ordinance No. 173 included a requirement for visual and olfactory observation, Ordinance No. 203 did not; and 2) Ordinance No. 203 included a requirement to examine capacity to accommodate test volume of water, Ordinance No. 173 did not.

City Administrator/Recorder Hilden went on to discuss City property statistics and the list of priority property types that provided City Staff with a guideline for notifying property owners that inspections were needed. In Dunes City there are about 1,142 tax lots, and about 770 of those are properties with structures requiring septic systems. There were six key types of property requiring inspection notification:

1. Lake front and system installed before 1974, then
2. Lake front and system installed between 1975 and 1984, then
3. Lake front and system installed after 1985, then
4. Back from lake and system installed before 1974, then
5. Back from lake and system installed between 1975 and 1984, then
6. Back from lake and system installed after 1985.

City Administrator/Recorder Hilden explained that City Staff spent a great deal of time creating a database for managing inspection notifications. Then, in 2009, additional staff was available to handle the effort to send more notifications per year. As of July 1<sup>st</sup>, 2014, there are approximately 270 lakefront properties with structures and septic systems, 36 of which (according to the City database) have not been pumped or inspected.

There was some discussion about the properties that are not in compliance. City Administrator/Recorder Hilden explained that there may be some that have been inspected but have not submitted the required paperwork and there may be some that are not in compliance with the inspection requirements. Council President Mills pointed out that of those 36 properties listed as non-compliant, some are for sale, others are owned by individuals who are no longer living in them and some may be (or were) in foreclosure. She added that it takes a lot of time and effort to find out the status of the property. There was further discussion about whether Ordinance No. 203 allowed any exemptions for these situations, what latitude the City has in granting extensions. City Administrator/Recorder Hilden pointed out that since July 1<sup>st</sup> 15 to 20 more systems have been recorded as compliant. Councilors went on to discuss the various situations that may contribute to a non-compliance status—a house that has burned and not been rebuilt, houses that are occupied only a short time each year—and it was generally agreed that collecting information is time consuming, but slowly being done.

Mayor Ruede thanked City Administrator/Recorder Hilden for taking the time to prepare and present the report. Councilor Wells also thanked City Administrator/Recorder Hilden for his report, noting that it shines a light on some of the things that are wrong with Ordinance No. 203—some properties may require more frequent inspections and some may require less.

There was some discussion about the Council's request for a review of Ordinance No. 203, including comments about the fairness of the requirements, the fact that properties that have been sold several times in a few years are inspected, and possibly pumped, more often. It was agreed that these kinds of issues prompted the Council's request for review of Ordinance No. 203 and recommendations for changes.

#### B. Planning Commission Appointment

Mayor Ruede pointed out the Application for Appointment to the Planning Commission submitted by Dunes City resident Bonnie Allen.

**Councilor Meyer made a motion to appoint Bonnie Allen to the Planning Commission for the term that expires on December 31, 2015. Councilor Wells seconded the motion.**

Council President Mills noted that Ms. Allen has been doing a good job on the Water Quality Committee. She is grateful for the time Ms. Allen contributes, and she would do a good job on the Planning Commission as well. Councilor Wells commended Ms. Allen for



her work on the Ad Hoc Committee for septic education and noted that he was glad to see that she applied for the Planning Commission vacancy.

**The motion passed by unanimous vote.**

## **10. REPORTS**

Mayor's Report: Mayor Ruede announced that the Ford Foundation, which provides grants, is seeking input on what kinds of grants cities are interested in receiving. She will provide more details when they become available.

Communication and Education Committee Report: Councilor Meyer reported that he attended a meeting co-sponsored by Comcast and Charter Communications. He explained that Comcast is taking over Time-Warner Communications nationwide and working on a merger with Charter that will give Comcast the northwest coverage area. The merger would mean that Comcast's programming would become available in our area. In addition, some advanced technology would become available in the area, such as the ability to use a smart phone to turn house lights on and off, lock or unlock doors in the house, open the garage doors, and more which could provide improved safety for City residents. Councilor Meyer went on to report that there was no discussion of fees, but Comcast offers programs for low-income families. The service would not be implemented until sometime in 2015. He explained that since Charter is the current Dunes City franchise, the City would need to switch to Comcast at some point. City Administrator/Recorder Hilden pointed out that any change in the ownership of the franchise would require City approval by resolution. He went on to explain that Comcast and Charter are working out an exchange of customer base, the change should be a benefit to Dunes City and, in negotiating a new contract, the City would be able to contract for the expanded service offerings, not just cable television. There was some discussion about contract negotiations and City Administrator/Recorder Hilden committed to providing a report and a draft resolution for the October Council meeting. Councilor Meyer also reported that he attended the LOC meeting in Yachats but would let Council President Mills and Councilor Sanders, who also attended, provide comments.

Ordinance Review Committee Report: Council President Mills noted that the LOC meeting focused on pre-determined topics for discussion such as transportation, medical marijuana dispensaries and property tax reform. She added that it was a good opportunity to talk to state representatives one-on-one. Council President Mills reported that the Ordinance Review Committee met to discuss the draft Shared Domestic Water Supply Ordinance, which will go to legal for review. The Committee also discussed the task assignment list for the Comprehensive Plan and the Medical Marijuana Dispensary Ordinance.

Water Quality Committee Report: Council President Mills reported the results of Secchi readings and chlorophyll readings on both lakes in June and July: Woahink Secchi readings were between 15' and 19' with chlorophyll readings 1.5 to 2 micrograms; Siltcoos Secchi readings were 6.3' and 7.0' with chlorophyll at 6. In other discussions, Committee members will talk to the Woahink Lake Association Board to see if they would be willing to find volunteers to monitor the boat launch during salmon season to determine the severity of boat flushing; Ave

Bernard will be approached about costs to create a water testing video; and, Committee members are still working to get water testing results on the City's website.

Community Center Report: Councilor Wells reported that dry weather makes pulling weeds very easy.

Conservation Committee Report: Councilor Anderson reported that there were no complaints or problems in the shore areas.

Parks and Recreation Committee: Councilor Scarberry reported that there was no meeting last month but there would be a meeting next week.

Road Commission Report and August Draft Minutes: Councilor Sanders reported that he was out of town and did not attend the August 18<sup>th</sup> meeting, but the minutes are included in Councilors' meeting binders. Councilor Sanders went on to report that the street maintenance projects for 2014 are completed. He also reported that among the topics discussed at the LOC meeting were programs to raise money for the state transportation fund, including increased gasoline taxes, license plate fees and a vehicle mileage tax.

Emergency Services Report: City Administrator/Recorder Hilden reported on the August 18<sup>th</sup> meeting, noting that EOC/ICS training for the board has been postponed. The board continued its review of the WLEOG membership agreement and Rules of Procedure, neither of which have been updated since the group's inception. City Administrator/Recorder Hilden noted that in order for Dunes City to enter into a new agreement, the City would need to adopt an Ordinance repealing the adoption of the original agreement and adopting the new one—this could be on the October or November City Council agenda. WLEOG's 2014 Homeland Security Grant application for \$40,000 was discussed, it is to be used to upgrade the Emergency Management Plan and provide additional EOC training, and the application has since been approved. Also present for the meeting were Bob DuPose from the Florence area Homeless Coalition and Ken Stone from Greentrees talking about the emergency preparedness expo scheduled for September 13 at Greentrees. Mayor Ruede asked whether any of the grant funds could be used in Dunes City; City Administrator/Recorder Hilden explained that the money would benefit the entire area's emergency operations activities, not just those of Florence.

City Administrator/Recorder/Planning Staff Report: City Administrator/Recorder Hilden reported that August permit activity declined compared to July's activity. Work continues on the one subdivision application. The Planning Commission appointed a Citizen Advisory Committee to review Ordinance No. 203. The CAC was to meet weekly until September 18<sup>th</sup>. At its August 26<sup>th</sup> meeting, the Planning Commission dissolved the CAC citing the CAC's inability to overcome its objections to the formation of the CAC and a lack of clarity about its assigned task. The Planning Commission scheduled a special session for September 10<sup>th</sup> to work on the Council's request to review Ordinance No. 203. The 2014 Street Maintenance Project was successfully completed with no complaints from the community, thanks to extensive outreach efforts. Water Right Administrative Fees continue to come in and City Staff has collected additional late payment fees—City Staff has made significant progress cleaning up files and the database. City Staff completed a report for Urban Growth Boundary Research by

the Population Research Center and responded to an inquiry from Lane County's Community Health Analyst about medical marijuana dispensaries. City Hall has had more visitor traffic than any other year.

City Administrator/Recorder Hilden reviewed the events relating to the recent Citizen Advisory Committee (CAC). The City prepared a public notice for the Planning Commission meeting on July 24<sup>th</sup>, posted the notice at City Hall and the Westlake post office, as well as on the City's website, and had it published in the *Siuslaw News*, all of the usual posting places for City notices and as required by law. Prior to release, the public notice was proofed by the City Attorney for land use matters. The term "proposed changes" was used in the notice and referenced by Mr. Stead earlier in this meeting. The fact that there were no actual proposed changes prepared for the CAC became a "major bone of contention."

City Administrator/Recorder Hilden pointed out the July 24<sup>th</sup> Planning Commission meeting minutes and the draft August 13<sup>th</sup> CAC meeting minutes that were included for reference in the Councilors' information binders. He went on to describe the several emails between City Staff and CAC members and the misunderstanding of meeting notice procedures given to CAC members when they were appointed. He noted that the CAC members paid close attention to the contents of the public notice and the material they were given.

City Administrator/Recorder Hilden described the August 13<sup>th</sup> CAC meeting, which he attended, noting that after a lengthy discussion one of the CAC members made a motion to suspend that meeting and all future meetings until the CAC had more clarification and direction from the Planning Commission. Following that action there were more emails between City Staff (and Planning Commission Chairman George Burke) and CAC members after which City Administrator/Recorder Hilden and Chairman Burke met to discuss the situation. As a result of that meeting, it was agreed to add to the agenda for the Planning Commission's August 26<sup>th</sup> special session the item "Clarify and Reassign CAC Task Re: Ordinance No. 203 Septic Maintenance."

City Administrator/Recorder Hilden noted that although he did not attend the August 26<sup>th</sup> Planning Commission he met with City Staff who were there and reviewed the draft minutes of the meeting. He went on to note that he disagreed with Mr. Stead, who earlier commented that the Planning Commission did not discuss the aforementioned agenda item, because a discussion is recorded in the minutes. He explained that after the discourse between Chairman Burke and then CAC Chairman Stead, the Planning Commissioners made a motion to dissolve the CAC and voted unanimously in favor of the motion. He also noted that Council President Mills attended the August 26<sup>th</sup> meeting.

Councilor Sanders asked City Administrator/Recorder Hilden to clarify the events thus far by noting that the Council gave the Planning Commission instructions to convene a CAC, the CAC was appointed and convened, the CAC interpreted their assignment contrary to the way the Planning Commission interpreted it, the CAC decided to suspend their meetings and not reconvene, the Planning Commission explained its interpretation to the CAC, and then "fired" the CAC. City Administrator/Recorder Hilden noted that Councilor Sanders had captured the essence of the events.

Mayor Ruede asked Planning Commission Chairman for comments about the discussion of the CAC. Chairman Burke began his remarks by saying that he was disappointed that this second attempt at a CAC did not work out. He explained, "The CAC's main task is to solicit from the citizens information on a new code that's being proposed, which is basically what you asked for. The reason for CACs is because most people don't like to come to a meeting like this and approach the dais, whether it's the City Council or the Planning Commission. But, they will go to their friends and neighbors if they've got a problem with an existing ordinance like 203. They will recommend changes or explain what they don't like about it. That's the way the state set this up and that's what Dunes City did to try to follow the state's example. The biggest problem with the CAC not doing its work for five weeks is that the private citizens did not have the opportunity to make suggestions, or their opinions known, on the existing 203 that's been going on in this City for several years now."

Chairman Burke went on to say, "I was more disappointed than anybody that this didn't work out. They seemed, from the get go, to be more interested in the new CAC process, that most of them didn't like in the first place. They say they didn't have explanations. We explained, and I read, your direction to the Planning Commission and the CAC. I read it several times and explained it several times at the appointment meeting. At the end of that appointment meeting they all agreed that they were ready to go to work."

He went on to describe the email exchanges among the CAC members, City Staff and himself. "And then I started... It happens that Fred had a scheduled vacation the following Monday after our Thursday appointment, I believe. I got calls from Staff saying they have this email, is this the right response to this email? Yes, that's the right response to the email. I got a couple of those calls that week. And then the next week there was more emails and more discussion. I have to explain the Planning Commission's part in this also. Once the Planning Commission appoints a CAC we don't deal with Staff. Staff has a complete list of administrative duties for how to operate a CAC. So, I'm not going to micromanage the Staff and be involved in their communications with the CAC, until it involves me. That's their job and that's the way I feel about it. If the Staff calls and says they've got a problem, I'll deal with it. I'll even come back to you... There wasn't any other problems."

Chairman Burke explained the "proposed changes" issue by saying, "We gave them copies of 203. My decision was to give them copies of 211 and 210 also because those were the changes that have come to this City as far as septic maintenance in the last three or four years. So, I thought I'd give them to them and it was for their information. John said tonight that it was for their information. There was a period in week three or week four where they were arguing that they shouldn't even be looking at those because they weren't adopted. And they weren't 203, they were only supposed to look at 203. They weren't supposed to look at 211 and 210."

He went on to say, "About that time they had their first meeting. That was week three or four. They decide they're going to remand it back to us and they want more information. This goes back to what the CAC is supposed to do. The CAC is supposed to involve the citizens of the community at the earliest possible beginnings of an ordinance so they get input from the citizens as early as possible. To me, that doesn't mean that we've got written ordinance and we

give it to a CAC. That's not that process. The process is if Council wants development of changes to an ordinance, and that's what you asked for. At the point I responded to the remand... Fred didn't mention it, but we sent a letter back to them and I told them to go back to work and review 203. That was the Planning Commission's answer to their remanding it back to us. After not hearing anything, no response to it, then we decided to have them come to our already scheduled meeting, and we would agendaize it and notice it. So, John and I had a discussion for about fifteen minutes and my first question was, 'Are you ready to start your meeting on 203?' This was after I explained and read what had been explained at the meeting when they were appointed. The whole problem all along is that they wouldn't... They didn't like taking direction from the Staff, and the Staff would tell them they have everything that there is. They all wanted to argue about the CAC process and state law for a CAC. The process is, follow the Council's direction. And, that in turn, is the Planning Commission's task for the CAC to follow our direction. We set up an eight-week period to do this. They were supposed to be done September 18<sup>th</sup>. As late as the other night John agreed that eight weeks was plenty of time. He agreed that eight weeks was plenty of time in the beginning. At that point the same rhetoric back and forth, proposed changes and recommendations on proposed changes, we don't have any proposed changes. It was explained to them from the get go, that they were supposed to make the proposed changes following what the City Council had asked. At that point we were going nowhere, we were in week five and it was the Planning Commission's desire to disband it, take over the CAC as we had done with the last one. We held a special session with about a week's notice advertising for citizens to come and make recommendations for changes or anything, whatever they wanted on 203. We had that first meeting last night. We'll have another citizen input on 203 before our regular meeting on September 25<sup>th</sup> [sic]. That will also be advertised. If we've exhausted what the citizens... Any citizens who want to come forward and make a recommendation or air their thoughts on 203, the Planning Commission will review 203 and make a recommendation to the City Council as you have asked. But we aren't going to have an official CAC body because it just wasn't working out. And, that's where we're at."

Mayor Ruede asked Councilors for comments. Councilor Sanders asked if this subject could be on the agenda for next month's Council meeting. Mayor Ruede said that it could.

Councilor Sanders asked Mr. Stead to step up to the microphone. Councilor Sanders noted that he had read Mr. Stead's letter, heard what he had to say, read the minutes from the Planning Commission, and read the minutes from the CAC. Councilor Sanders asked Mr. Stead, "If the Council has given direction that the CAC was asked to review Ordinance No. 203 and come up with recommendations to improve that, and provide the Planning Commission with all opinions, whether its consensus or not, is it still your position as past Chairman that you would not hold a meeting to respond to the direction of this body?"

Mr. Stead replied, "In my letter...and maybe I didn't make it clear. I have a difficult time doing what my Committee has asked for. You call a meeting, you don't have the stuff you need, you don't have a document to look at, a document from the Planning Commission or someplace so that we have a document to review... If you don't have one, I'm reluctant to call a meeting."

Councilor Sanders asked, “If we give you an existing ordinance and ask you to review it and make recommendations for improvement, if we give you that ordinance are you saying that’s not enough information to do that job?”

Mr. Stead answered, “No. I’m saying that is not a problem.”

Councilor Sanders said, “Well, that’s my question, Mr. Stead. Are you still of the opinion that you would not call this body back together to respond to the direction of the Dunes City Council?”

Mr. Stead replied, “If we have, and I made this clear to Mr. Burke, if we are instructed to do what the City Council asked to be done we’ll do it. You made it very clear in the motion at the Council meeting what you wanted and we’ll do it.”

Councilor Sanders asked, “Why wasn’t it done then, sir?”

Mr. Stead answered, “Those were not our instructions. The public notice that was posted for everybody twice in the newspaper said something different. It talked in the past tense.”

Mayor Ruede and Councilor Sanders thanked Mr. Stead and Councilor Sanders again asked if the subject could be on the agenda for next month. Mayor Ruede agreed.

Mr. Stead said, “If someone will say, hey, we want the Committee to do whatever you said you wanted it to do... If we have instructions that match what you’re telling the public by way of the announcement and, by the way, the Planning Commission reviewed that document before it was published. And, I heard tonight that the City Attorney reviewed that document as well. We were told by Mr. Hilden and Mr. Burke, and we agreed, that this is the first CAC that the City has had. We are going to do it by the book. We’re going to do it right. We were urged to do that and we agreed to do that. What we have before us is a lot of confusion. I believe if you will listen to the audio of the meetings, you may hear some different things from what are in the minutes. I’m not quarreling with the minutes, I’m saying that you’ll get a true flavor for the dialogue that went on between myself and Mr. Burke in particular. If you hear the audio you’d have a better appreciation for what was going on in terms of any discussion about helping the CAC. How can we get over this? Is there any way we can modify this? None of this took place. In fact, the most troubling part of this is that Mr. Burke was overheard before that meeting telling someone that he was going to dismiss the Committee. This is before the meeting started. I had that information.”

Councilor Sanders said, “My question, sir, dealt with specifically my comments and to talk about anything else, I think, is inappropriate at this point. I think we’re going to have this agenda item next month. I would ask, if the Council is OK with it because it’ll cost a little more money, can we get a verbatim transcript of Mr. Burke’s comments tonight and Mr. Stead’s comments tonight in the minutes?” City Administrator/Recorder agreed to provide the verbatim transcript.

Mayor Ruede offered Councilors an opportunity to make comments.

Council President Mills expressed her extraordinary disappointment that this did not work out the way that she hoped. She noted that she felt it was partially her fault because the Council wanted to send this to the Ordinance Review Committee and she didn't want to do the work, based on earlier efforts that had been "blown out of the water." She went on to say that this was an opportunity for the CAC to do something and it wasn't done. She added that perhaps this should not be for the Planning Commission either, but perhaps go back to Ordinance Review to come up with a proposal based on what was tried before, and then send that to a CAC. She went on to say that if the Planning Commission was willing to do the work, that would be fine, but it was frustrating because this was an opportunity. She also added that an individual on the Committee asked to negotiate and that didn't happen because of concerns over wording and if a proposal was wanted for consideration, 211 would be the one to consider.

Councilor Wells commented that the majority of the CAC were opposed to the CAC process and Ordinance No. 203. In his opinion, that was the root of the problem here. He noted that he believed the Planning Commission and City Staff gave the CAC all the appropriate information they needed to review 203 and make recommendations for changes. He went on to commend the Planning Commission and Chairman Burke for taking the action to disband the CAC and keep the process for reviewing 203 moving forward. He added that he hoped, in the future, to see a broader representation of citizens apply to a CAC so there isn't the conflict that was experienced this time.

Councilor Meyer commented that this seemed like an ideal opportunity to get some good input from citizens via the CAC process and it seemed like that was ignored and circumvented. In his opinion, the solution is to allow the Planning Commission to do the work of the CAC.

Referring to City Administrator/Recorder Hilden's septic maintenance presentation, Councilor Scarberry pointed out that Ordinance No. 203 was essentially summarized on one page so he was confused by the CAC's position that it did not have a document to work with—203 is the document. He noted that he had read the various minutes and communications provided and the word "semantics" came to mind. He went on to comment that he felt the Planning Commission should take on the work of reviewing 203 at this point.

Councilor Sanders noted that he hoped next month's Council meeting would shed more light on next steps. He went on to add that the process should not have been shut down, because if there was a problem it could have been addressed and fixed. He also felt that there could be some legal issues for the City Administrator to discuss with the City Attorney. He thanked both Chairman Burke and Mr. Stead for their comments.

Mayor Ruede commented that she agreed with Council President Mills' and Councilor Wells' comments and noted that the Council had felt the timing was right to be proactive in gathering information about how to change Ordinance No. 203 so that the community as a whole could live with it. She went on to note that this was the correct process, following state guidelines so it was unfortunate that instructions were misinterpreted. She added the CAC did the right thing by asking for clarification but, when it was provided, the process stopped. Mayor Ruede also noted that it was disheartening to read the minutes of the CAC meeting where it seemed

that one person essentially sabotaged the Committee and prevented the citizens from giving input.

Mayor Ruede thanked everyone for attending the meeting and for providing comments. The feedback will be considered by the Council and the Council will agendize the matter for next month. She suggested that the Council's choices would be to do nothing or perhaps to revisit the situation. She asked Councilors to think about options and whether the Planning Commission should appoint another CAC. She noted that in the meantime the Planning Commission is moving forward with its review of Ordinance No. 203 and gathering citizen input.

Mayor Ruede recognized Planning Chairman Burke. Chairman Burke noted that the Planning Commission has established that it will act as the CAC for this matter. As such, it has already held one meeting and has directed Staff to prepare notices for the next scheduled meetings. He asked the Council to clarify whether it wanted the Planning Commission to proceed as it has planned or to drop the issue.

**Council President Mills made a motion to advise the Planning Commission to move forward on review of Ordinance No. 203 acting as the CAC and to provide the Council what it requested.**

Councilor Sanders objected to the motion on the grounds that it was not an agendized item for action. He went on to note that the Council could not take action tonight.

**Council President Mills withdrew the motion.**

Mayor Ruede offered to clarify the situation, acknowledging Chairman Burke's request for direction from the Council during this meeting. She noted that the Planning Commission has scheduled meetings, will be posting notices of them and will be gathering citizen input. She added that any citizen input the Commission gathers will not be wasted.

There was further discussion about whether or not the Planning Commission should, as the City's Committee for Citizen Involvement (CCI) act as the CAC to gather citizen input with Chairman Burke explaining that the Planning Commission did not necessarily require an action item by the Council next month to do so—all that is needed is a consensus among Councilors that the Commission should continue on the course it has set. There was a question about whether or not the Council needed to call a special session to discuss this issue.

Councilor Scarberry noted that the Planning Commission has already taken on the role of CAC and the Council should take no action other than let the Commission continue. Councilor Sanders noted that while he agreed in general, he was concerned about potential legal ramifications and about taking action on an item that was not on the meeting agenda.

There was more discussion about the responsibility of the Council to make sure that there are no legal implications in this situation and that the City is not exposed to a potential lawsuit or a LUBA remand. It was noted that the citizen input process has already been started and should be allowed to run its course but the City Administrator could place a telephone call to



the City Attorney in the meantime to discuss the situation. It was also noted that if the Planning Commission provides the Council with recommendations, the Ordinance Review Committee would draft an ordinance that would be reviewed by the City Attorney and then go through the Public Hearing process. It was eventually agreed that the consensus was for the Planning Commission to continue its work on reviewing Ordinance No. 203.

Chairman Burke announced that he and his wife have extended the closing date for the sale of their house until October 3<sup>rd</sup>. At that point, he explained, he would resign his various City volunteer positions but would continue working on Chapter 155 with the Planning Commission as an unpaid consultant.

Chairman Burke noted that there was another issue that came up during discussions of Ordinance No. 203. He asked if the Council could authorize the City Administrator to consult with the City Attorney to determine if the City can create a franchise for inspecting and pumping City septic systems. He explained that the idea has been suggested as a way for the City to help control the rising costs of inspections and pumping and resolve some of the issues related to Ordinance No. 203.

Mayor Ruede thanked Chairman Burke for the suggestion.

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

Councilor Wells noted that he was looking forward to reviewing the information from the CAC.

Councilor Sanders announced that the Road Commission is starting to identify street maintenance projects for 2015. He invited residents and Councilors to submit ideas. He noted that much of the damage and injuries from the recent earthquake in Napa, California, was because mobile homes were not tied down. He suggested that WLEOG and/or Florence could look at this issue and Dunes City might want to look at future ordinances addressing this safety issue—possibly, at the very least, educating residents about tie downs. City Administrator/Recorder Hilden pointed out that new State building codes require tie downs on new pier-built structures.

Councilor Anderson commented that he continues to be impressed with the passion, emotion and dedication of community members. He reminded everyone that they are on the same team and should continue to use their talents and gifts for the betterment of the City.

Councilor Scarberry noted that a few months ago there was a conversation about Honeyman Park's use of treated sewage along the roadside on Canary Road. He explained that for a couple of months he has been able to smell sewage along the bridge area on Canary Road and noted that if the City is working to keep the lakes clean, disposing of sewage seems contrary. He wondered if there was a Park representative who could address the issue. City Administrator/Recorder Hilden offered to contact the Park and find out if a representative would be willing to attend a future Council meeting to explain this.

## 12. ADJOURNMENT

**Mayor Ruede requested a motion for adjournment. Councilor Scarberry made the motion to adjourn. Councilor Sanders seconded the motion. There was no vote taken.**

Mayor Ruede adjourned the meeting at 9:56 pm.

**APPROVED BY THE DUNES CITY COUNCIL ON THE 9<sup>th</sup> DAY OF OCTOBER 2014.**

[Signed copy available at City Hall]

Rebecca Ruede, Mayor

ATTEST:

[Signed copy available at City Hall]

Fred Hilden, City Recorder