



PLANNING COMMISSION SPECIAL SESSION MINUTES ~ APPROVED
THURSDAY, OCTOBER 9, 2014 AT 3:00 PM
City Hall ~ 82877 Spruce St., Westlake, OR 97493

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

1. CALL TO ORDER

The October 9th Planning Commission Special Session was called to order by Vice Chairman Paul Gargis at 3:02 pm.

2. ROLL CALL

Roll Call was taken by Planning Secretary Rapunzel Oberholtzer.

Present: Vice Chairman Paul Gargis, Commissioner Ken Henderson, and Commissioner Norman Martin. (As of October 3rd, there is one vacancy.)

Absent and Excused: Commissioner/Appointee Bonnie Allen (not yet sworn to office).

Others Present: City Administrator/Recorder Fred Hilden.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

Commissioner Henderson made a motion to approve the Agenda. Commissioner Martin seconded the motion. The motion passed by unanimous vote.

5. APPROVAL OF THE CONSENT AGENDA

Commissioner Henderson made a motion to approve the September 25th, 2014 meeting minutes as submitted. Commissioner Martin seconded the motion. The motion passed by unanimous vote.

6. ANNOUNCEMENTS /CORRESPONDENCE

City Administrator/Recorder Hilden informed the Commissioners that earlier in the week the City received notification that Chairman George Burke resigned from the Planning Commission effective Friday, October 3rd at 5:00 pm. At that time, he also resigned from the Ordinance Review Committee and the Budget Committee.

7. CITIZEN INPUT – None

8. NEW BUSINESS

A. Planning Commission Appointment of Unpaid Consultant George Burke

Vice Chairman Gargis asked City Administrator/Recorder Hilden if any discussion of this item was necessary. City Administrator/Recorder Hilden suggested some discussion noting that City Code is silent on this issue but City Committees and Commissions have generally been allowed to appoint outside consultants as necessary. He remarked that Mr. Burke's experience would be valuable to the Commissioners as they finish various projects currently in the works.

There was some discussion, during which Commissioner Henderson asked Mr. Burke if he had any idea about the activities and the time he was willing to put in on unfinished projects. Mr. Burke explained that he planned to attend every meeting to work through the key projects—Ordinance No. 203, Chapter 155 and related questions for the City Attorney, among other things. City Administrator/Recorder Hilden pointed out that work on Chapters 151 and 154 was also still not completed. Mr. Burke agreed and noted that he would represent the Planning Commission to present its recommendations on these matters to the City Council.

There was further discussion about the timeframe for finishing these projects and returning to regular business. Mr. Burke noted that the Planning Commission's work on Ordinance No. 203 could possibly be complete by the end of the year and work on Chapter 155 could possibly be finished in one or two more meetings, at which time a draft would be prepared for the City Council to review.

There was a short discussion about the potential for change in the membership of the City Council after the November elections and how that might affect the Council's future work. City Administrator/Recorder Hilden pointed out that one Councilor is not running for reelection and there could be a write in candidate for that vacant seat but the Mayor and two other Councilors are running for reelection.

Turning back to the discussion about a timeframe, City Administrator/Recorder Hilden noted that the November and December regularly scheduled meetings fall on holidays. He suggested that Commissioners consider canceling those and, instead, hold special sessions on November 13th and/or December 11th just before the scheduled City Council meetings so that Mr. Burke could attend both meetings. Commissioners generally agreed and the consensus was for those meetings to begin at 3:00 pm.

Commissioner Henderson made a motion to form a strategic allegiance with Lane County resident George Burke as an unpaid consultant to the Planning Commission until further notice. Commissioner Martin seconded the motion. The motion passed by unanimous vote.

9. UNFINISHED/OLD BUSINESS

A. Chapter 155 Review of Sample Detached Building Code

Vice Chairman Gargis asked if Commissioners and City Staff had had a chance to review the sample of Henderson, NV Code Chapter 19.5.7 that was included in their packets and noted that the Code pertains to determining size and scope of a detached building. He pointed out that the City of Henderson determines the size of detached buildings by two methods: 1) 50 percent of the size of the principal structure, and 2) 10 percent of the lot size. He went on to note that for small lots, the 10 percent number was not a major issue, but on larger lots like the ones in Dunes City, the 10 percent factor could result in very large buildings.

There was some discussion during which Vice Chairman Gargis noted that he thought there should be some leeway for a property owner and neighboring homes to have a say in what could be built. In some areas, he went on, lots are so wooded that it would not make much difference to neighbors what was built, but in areas where lots are open, larger buildings could be unsightly. In Henderson, he added, detached buildings cannot exceed the height of the residence. In summary, he remarked that, in his opinion, there should be some limitations in Dunes City Code on the size of detached buildings.

City Administrator/Recorder Hilden noted that some of the restrictions in Henderson's Code is more strict than existing Dunes City Code. He went on to note that he did not have adequate time to digest the Henderson Code and determine how it would fit into Chapter 155 so, even though there were good ideas in the Code, he would need more time to review it. Vice Chairman Gargis commented that there should be a limit on what a neighbor builds so it does not impact the rest of the neighborhood.

There was further discussion about the City of Henderson's rationale for limiting the size of detached buildings so that the largest structure on a lot is the residence, not a separate building. Vice Chairman Gargis explained that in Henderson some property owners circumvented Code restrictions by buying two lots, building a home on one and another larger building on the other, with the result that some residential neighborhoods felt more like industrial areas. He went on to remark that in an area like Dunes City where nice, new homes are being built on City streets, there should be some limitations on the size of detached buildings.

Commissioner Henderson proposed that further discussion be tabled until the next regularly scheduled meeting to give City Administrator/Recorder Hilden and Mr. Burke time to review the material. Mr. Burke noted that he would like to have more time to review the information better but there could be good use for some of the Henderson guidelines in Dunes City Code. He suggested that everyone take time to review the information, compare it with the new Chapter 155 content, and think about how to incorporate this new content into Chapter 155. Vice Chairman Gargis agreed, saying that he would like everyone to study the Henderson Code and bring recommendations to the next meeting.

There was some discussion about the next regularly scheduled meeting on October 23rd and whether or not there would be a quorum. Commissioner Henderson reminded everyone he would not be present. Staff was asked to email Commission Appointee Bonnie Allen to determine if she would be available on the 23rd for a quorum.

B. Planning Commission Acting as Citizen Advisory Committee (CAC)
Re: Ordinance No. 203 – Citizen Input

There were no citizens present to provide input.

C. Review Ordinance Nos. 203, 210A and 211A

There being no citizens present to give input, Vice Chairman Gargis opened the discussion to general comments from Commissioners, noting that he himself still had some questions about Ordinance No. 203 that he would like answered. He asked if one of the problems for the City is the cost—inspections, pumping, mapping, and the City fee. City Administrator/Recorder Hilden replied that cost to residents is one of the biggest concerns. He went on to note that one of the suggestions that came from past meetings about Ordinance No. 203 is a utility district franchise arrangement that would allow for City oversight to make sure that vendors are not overcharging for their services. He went on to point out that there are pumpers who come from as far away as Veneta, so it stands to reason they might charge more for their services to recuperate their costs for time and travel. He added that a mechanism for controlling costs is one of the things that should be considered in making modifications to Ordinance No. 203.

Vice Chairman Gargis asked how the City's \$50 filing fee for inspections is used. City Administrator/Recorder Hilden explained that it covered City Staff time to maintain the septic database and produce notifications of inspection due dates. There was some discussion about this with City Administrator/Recorder Hilden noting that although the number of notices sent out may have dropped off over the last couple of years, Staff still spends considerable time discussing septic compliance issues with residents and spends as much time administering the database as it ever has.

In other discussion, it was noted that there are other septic inspection/pumping vendors that could possibly take over the City's database maintenance. City Administrator/Recorder Hilden commented that, in his opinion, a \$50 fee for City Staff to maintain the database and do other tasks related to the septic Ordinance is not unreasonable. Mr. Burke agreed, remarking that the City is already putting the maintenance services out to retail vendors so it would not be prudent to turn over the reporting and maintenance records to one of them, especially since there is more than one company that does septic work—by Ordinance the City should maintain control of the reporting. He went on to explain that there are other ways to cut costs. One way would be to require via Ordinance that inspectors check with the City for maps and related documents already on file for a property rather than requiring that his company create a map before any new

work is done—in other words, previous maps and documents on file with the City must be used.

There was some discussion about whether or not the City should be keeping septic system maps, or whether they should be on file with the County only. Mr. Burke explained that current code requires the City to keep the maps. He went on to explain that until the late 1980s or so, the County did not have complete records; since then, homeowners are required to provide the City with copies of their County records. Mr. Burke reiterated his opinion that inspectors and pumpers should not charge homeowners for mapping before they do any new work when maps are already on file with the City—a requirement for vendors to use City records should be part of any new Ordinance.

Discussion followed about the requirements for pumping in Ordinance No. 203 with City Administrator/Recorder Hilden pointing out that Ordinance No. 203 does not require pumping every five years, it only requires an initial pumping and an inspection every five years. He explained that the inspection determines whether or not the system is functioning properly and whether the tank needs pumping. He went on to note that the inspection can determine scum levels, whether or not the drain field is working, etc. without pumping the tank, but just opening the tank and looking inside is not an inspection. One of the biggest flaws with Ordinance No. 203, he went on to add, is that it requires inspections on a fixed interval for everybody, not matter how big a tank the residence has or the number of people living in the residence. Commissioner Henderson pointed out that distance from a system to the lake should be another consideration and City Administrator/Recorder Hilden agreed, noting that homes nearest the lake should have more stringent requirements.

Commissioner Henderson broached the subject of revenue generated by the inspection fees, noting that since about 2006 roughly \$35,000 has been received by the City, with about 645 residences now compliant. He pointed out that most of the income was in 2009 through 2012 when the bulk of inspection notifications was sent. He asked whether that income was sufficient for City Staff to manage the program. City Administrator/Recorder Hilden agreed that figure was about right.

Mr. Burke offered some clarification about pumping, explaining that it is possible to harm a septic system by excessive pumping and automatically pumping every five years could easily do that. He went on to explain that was the reason that pumping should only be done when an inspector recommends it and, because every household is different, a five-year mandatory pumping requirement would be overkill. That issue, he added was addressed in Ordinance No. 210A which took into consideration the differences in households, left the recommendation to pump up to the inspector and allowed for inspections at intervals other than five years. He went on to note that when 210A was written it was an attempt to reduce the cost to homeowners by reducing the frequency of inspections and pumping. Mr. Burke added that he thought 210A was a good start but

might need language added to strengthen requirements for property close to lakes and rivers and improve protection—those properties might need more frequent inspections. He also noted that current code specifies that drain fields cannot be located less than 100 feet from the water.

There was a short discussion about the possibility that vendors may have taken advantage of residents' ignorance about septic systems and pumped more frequently than necessary. Mr. Burke acknowledged that this situation could easily exist and a Septic Maintenance Ordinance also helps educate residents to understand septic systems. He went on to note that the potential for vendors to overcharge and over service residents is one of the reasons he believes that a franchise agreement would give the City control over vendors and costs and should be a key part of any new Ordinance. He explained that he would follow up on his recommendation last month for City Council to authorize City Staff to seek the City Attorney's input on franchise agreements and noted that the input from the Attorney would help determine whether this type of franchise arrangement is at all possible for Dunes City.

During a discussion about pumpers, inspectors and installers it was noted that some inspectors are not licensed pumpers, some pumpers are not also inspectors, and installers might not be inspectors or pumpers. It was generally agreed that this could lead to confusion among residents about who does what. There was also a short discussion about how septic requirements at the County level have changed over the years as new types of septic systems have evolved, and what is required now for homes in proximity to bodies of water.

Mr. Burke suggested that City Administrator/Recorder Hilden present his Septic System Maintenance Status Report.

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 9th of 2006 after years of work. He read aloud from the section about Ordinance No. 173:

Dunes City Responsibilities:

- 1) *Maintain records of individual septic systems*
- 2) *Maintain a register of State approved inspectors*
- 3) *Provide informational pamphlets when evaluations are due*
- 4) *Provide forms for all evaluation reports*

Owner Responsibilities:

- 1) *Initial inspection to include mapping **
- 2) *All evaluations to be in accordance with Dunes City Standards*
 - *Registered inspectors*
 - *Conduct visual and olfactory observation*
 - *Examine condition of septic tank and contents*

- *Examine absorption/disposal field(s), drainfields*
 - *Pumps, filters and other important system features*
 - *Prepare a report of the system condition and mapping of drainfield*
- 3) *Evaluations at a minimum of once every five years, prior to sale of property and at time of change of use*
 - 4) *Pay a fee to cover expense of administering ordinance*

**A map and evidence of installation or pumping in the previous five years is basis for compliance with this ordinance.*

City Administrator/Recorder Hilden continued with his report noting that the second Septic System Maintenance Ordinance No. 203 was adopted by the City Council on January 14th of 2010. Ordinance No. 203 intended to close “the inspect without pumping” loop-hole in Ordinance No. 173.

City Administrator/Recorder Hilden pointed out the key differences between the two Ordinances:

- 1) Ordinance No. 173 required Dunes City to provide informational pamphlets when evaluations are done, Ordinance No. 203 did not,
- 2) Ordinance No. 173 included a requirement for visual and olfactory observation, Ordinance No. 203 did not,
- 3) Ordinance No. 203 included a requirement to examine capacity to accommodate test volume of water, Ordinance No. 173 did not, and
- 4) Ordinance No. 173 required a map of evidence of installation or pumping in the previous five years as basis for compliance, Ordinance No. 203 required only evidence of installation.

City Administrator/Recorder Hilden continued with his report. 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 pointed out that the City first worked with LCOG to develop an internet database for administering the program; that system was expensive and time consuming and was scrapped. In 2009 an Excel spreadsheet was implemented and that has worked well. He went on to explain that at this point the database is accurate with respect to which houses are lakefront and which are not. He also noted that every property in Dunes City with a septic system has been notified about an inspection at least once by now. He went on to note that, according to the database,

of the 270 lakefront properties, 36 have not been inspected or pumped; however, it is possible that at least some of those are in compliance but have not informed the City.

There was some discussion about properties that are known to be noncompliant with City Administrator/Recorder Hilden explaining that City Staff continues to mail letters, priority being focused on lakefront properties for the last year or so. Vice Chairman Gargis asked what enforcement avenues were available to the City. City Administrator/Recorder Hilden explained that there are fines and penalties included in Ordinance No. 203 but the City Council has suggested that the City not use them. He pointed out that he has been able to get some properties compliant by talking to the residents, explaining the requirements and educating them about the importance of inspecting and maintaining their systems. He also pointed out that the Planning Commission's recommendation to the City Council was to adopt both Ordinance Nos. 210A and 211A, with 211A being focused on education about septic systems. He remarked that, in his opinion, a new Ordinance should be tempered to allow for flexibility in the frequency of inspections based on system load and also distance from a lake, but education is also critical.

There was some discussion about household sizes and how the City knows how many people are living in a residence during which City Administrator/Recorder Hilden explained out that the City's inspection form includes a question about the number of people living in the residence and when that form is received by the City, Staff updates the database. Comments were made about the frequency of pumping and the misinformation about pumping every five years, which is not good for most septic systems or necessary. Mr. Burke remarked that any new Ordinance should be written so that it helps keep costs low, protects the lakes and drinking water, and requires inspections in line with the size of a household. He went on to note that Ordinance language could, possibly, include a requirement that inspections be done only by qualified inspectors who are not also pumpers so there is less possibility for an unscrupulous pumper to take advantage of a homeowner by saying that a septic tank needs pumping when it actually does not need it—something that was discussed when other Ordinances were being crafted.

Further discussion ensued. There were comments about various types of septic systems. City Administrator/Recorder Hilden pointed out that the state might, at some point, begin to regulate septic system maintenance. Mr. Burke explained that the suggestion presented to the Commission for an HOA type of arrangement in which residents pay a monthly fee for septic maintenance would actually cost Dunes City residents about \$600 over a five-year period, more than the cost for inspection and pumping now. Mr. Burke also reiterated his opinion that the franchise arrangement is the best way for the City to control costs for residents. There was discussion about the disposal of matter pumped from septic tanks. It was explained that DEQ determines where and how each pumper disposes of the waste matter.

Vice Chairman Gargis suggested that the Commission wait to find out if the City Council authorizes City Staff to talk to the City Attorney about the possibility of the City developing a franchise arrangement with inspectors and pumpers. He noted also that

this would give the Commission time to ask more questions, gather more information and get more input from citizens.

There was some additional discussion about how to get everyone in the City compliant with the inspection requirements. Mr. Burke suggested that City Staff continue what they are doing. It was noted that the County cannot and would not get involved with the process—the only time the County steps in is when there is a complaint. The County only approves the installation of septic systems, it has no routine inspection process.

There was a discussion about the next meeting dates and possible actions. Commissioners agreed to cancel the regularly scheduled meeting on October 23rd and hold a special session on October 30th at 6:00 pm.

D. Committee for Citizen Involvement (CCI) Annual Report to City Council

City Administrator/Recorder Hilden pointed out the remaining agenda item, the draft Committee for Citizen Involvement (CCI) annual report to City Council. Mr. Burke explained that if the Commissioners approved it, he would present it to the City Council.

Commissioner Henderson made a motion to approve the draft report as submitted. Commissioner Martin seconded the motion. The motion passed by unanimous vote.

10. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA – None

11. ADJOURNMENT

Commissioner Henderson made a motion to adjourn the meeting. Commissioner Martin seconded the motion. No vote was taken.

Vice Chairman Gargis adjourned the Planning Commission Special Session at 4:59 pm.

APPROVED BY THE PLANNING COMMISSION ON THE 30th DAY OF OCTOBER 2014.

[Signed copy available at City Hall]
Paul Gargis, Planning Commission Vice Chairman

ATTEST:

[Signed copy available at City Hall]
Rapunzel Oberholtzer, Planning Secretary