



PLANNING COMMISSION SPECIAL SESSION MINUTES ~ APPROVED
THURSDAY, NOVEMBER 13, 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 November 13th Planning Commission Special Session was called to order by Vice Chairman Paul Gargis at 3:04 pm.

2. ROLL CALL

Roll Call was taken by Planning Secretary Rapunzel Oberholtzer.

Present: Vice Chairman Paul Gargis, Commissioner Ken Henderson, Commissioner Norman Martin, and Commissioner Bonnie Allen. (As of October 3rd, 2014, there is one vacancy.)

Others Present: Planning Secretary Rapunzel Oberholtzer, unpaid consultant George Burke and several citizens.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

Commissioner Henderson requested to add a housekeeping item to the Agenda. Upon consent by Vice Chairman Gargis, **Commissioner Henderson made a motion to appoint Vice Chairman Gargis as Chairman of the Planning Commission. Commissioner Allen seconded the motion. The motion passed by unanimous vote.**

Chairman Gargis made a motion to appoint Commissioner Henderson Vice Chairman of the Planning Commission. The motion was seconded by Commissioner Allen.

Following a brief point of order discussion during which it was noted that Chairman Gargis, as Chairman of the Commission, could not make the motion, Chairman Gargis withdrew his motion and Commissioner Allen rescinded her second.

Commissioner Allen made a motion to appoint Ken Henderson to assume the duties of Vice Chairman of the Commission. Commissioner Martin seconded the motion. The motion passed by unanimous vote.

5. APPROVAL OF THE CONSENT AGENDA

A. Planning Commission Special Session Meeting Minutes of October 30, 2014

Vice Chairman Henderson made a motion to approve the Consent Agenda as submitted. Commissioner Allen seconded the motion. The motion passed by unanimous vote.

6. ANNOUNCEMENTS /CORRESPONDENCE

Planning Secretary Rapunzel announced that a few new written comments about Ordinance No. 203 were received at City Hall since the last meeting of the Planning Commission and copies of them were included in the Commissioners' packets for this meeting. She also announced that on November 8th *The Siuslaw News* printed for the second time a press release announcing the vacancy on the Planning Commission. Rapunzel also announced the Mayor's Banquet scheduled for December 12th beginning at 5:30 pm and invited everyone present to attend.

Chairman Gargis requested that Commissioners take a few minutes to review the new letters from citizens about Ordinance No. 203.

Vice Chairman Henderson made a motion to accept the letters submitted to the Commission for discussion. Commissioner Allen seconded the motion.

Chairman Gargis opened the meeting to Commissioners' comments about the letters. Commissioner Allen requested clarification of a letter from citizen Mr. Fred Hilden in which he referenced Ordinance No. 201, asking whether the reference was meant to be to Ordinance No. 210A. Staff clarified that the intent was to reference Ordinance No. 210A, the reference to 201A was a typographical error. There were no further comments from Commissioners.

The motion passed by unanimous vote.

7. CITIZEN INPUT

Chairman Gargis asked whether any citizens had signed the Request for Recognition form to provide citizen input to the Planning Commission and recognized Ms. Susie Navetta who signed up to give comments.

Ms. Navetta, a Dunes City resident, requested Staff to distribute copies of her written comments about the Dunes City Comprehensive Plan and explained that she intended to give her comments to the City Council as well. She went on to explain that she worked on the Comprehensive Plan, with many other citizens, beginning in 1996 and finalized the existing Plan over a year later in 1997. She added that her statement to the City Council would include the points outlined in her written comments. She went on to read aloud from her prepared statement:

The Dunes City Comprehensive Plan has not been changed to reflect the amendments to ordinances that have occurred since 1997.

It is time to step back and make those corrections before going forward:

- 1. Dunes City should first have a complete Ordinance Review Committee.*
- 2. Have complete agreement of the City Council on the route you are taking.*
- 3. Complete the amendments to Ordinance 155 and Ordinance 203 and (others out there)*
- 4. Don't spend funds twice by amending the ordinances again after the fact.*
- 5. (One of the most important things when writing ordinances to put into code is) Remember the changes need to match between the new and the existing Comp. Plans.*

Ms. Navetta noted that the City Council is considering spending \$40,000 to revise the Comprehensive Plan so pending ordinances should be completed before that work is done and the money spent. She went on to reference discussion at the last Planning Commission meeting in which there was a question about asking Randy Trox from Oregon's Department of Environmental Quality to attend a meeting and noted that Jackie Fern from DEQ attended a Festival of the Lakes to give a presentation. In Ms. Fern's presentation she pointed out that Dunes City is a statewide leader in dealing with septic issues, with Dunes City being the first community to write a septic maintenance ordinance. Ms. Navetta suggested that it would be advantageous to have Ms. Fern speak at a meeting.

Vice Chairman Henderson thanked Ms. Navetta for her list, for her participation on various committees and crafting the septic maintenance ordinance. He asked Ms. Navetta if she was aware that the Ordinance Review Committee had been working on Ordinances and changes to the Comprehensive Plan. In discussion it was noted that the Ordinance Review Committee reports to the City Council and the Planning Commission might not be aware of all the work that Committee is doing.

Commissioner Allen asked Ms. Navetta to clarify whether it was her opinion that work on Chapter 155 and Ordinance No. 203 should not move forward at this time. Ms. Navetta explained that work on those items and others that are in progress should be completed before the Comprehensive Plan is revised.

Vice Chairman Henderson explained that the Planning Commission had finished its initial work on Chapter 155 and sent it to the City Attorney for review. Consultant George Burke elaborated, noting that the Commission still had some questions to discuss with the City Attorney before it could complete the final revisions to Chapter 155. Vice Chairman Henderson further explained that the Planning Commission had dedicated numerous meetings and many hours to work on Chapter 155 and Ordinance No. 203 was a relatively new item added to the Commission's work.

Mr. Burke explained the \$40,000 cost for revising the Comprehensive Plan, noting that the City Council had requested a quote from LCOG for revising and updating the Comprehensive Plan—\$40,000 was the estimate for revising the entire Plan. He went on to point out that the City Council was still in discussion about how and when to proceed with updates to the Plan. He further explained that the Council is not considering major revisions but rather

reorganizing the content to more closely follow Statewide Planning Goals and also update the outdated information in the Plan.

Commissioner Allen referenced discussion during the previous Planning Commission meeting about the City's powers of Ordinance enforcement, noting that the Comprehensive Plan [sic] did not give the City enforcement authority. She went on to say that taking care of Ordinance No. 203, rewriting the Comp Plan to include enforcement language and then voting on it would be an efficient way to move forward. Mr. Burke explained that while the City Council was reviewing the Comprehensive Plan it found several deficiencies that need to be corrected and the Council is still discussing how to move forward with Plan updates. He went on to point out that changes to the Comp Plan have no effect on Chapter 155's existing content.

8. UNFINISHED/OLD BUSINESS

A. Planning Commission Acting as Citizen Advisory Committee Re: Ordinance No. 203

Chairman Gargis recognized Ms. Susie Navetta who signed up to provide citizen input. Vice Chairman Henderson noted that the Commissioners had a copy of Ms. Navetta's November 4th email written to support Ordinance No. 203 "for the health, safety and welfare of our entire community and for the longevity of the lakes." Ms. Navetta had no other comments to add.

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

Chairman Gargis asked Commissioners for their comments. Vice Chairman Henderson pointed out that most of the written and oral comments presented to the Commission are in agreement that the lakes must be protected for personal health, family health, property values, and for aesthetics—all point to protection of the lakes. He went on to note that Ordinance No. 203 was a strong attempt to create rules everyone could live with even though it may need tweaking to take into consideration residences located at various distances from the lake, with lakefront residents being the most critically in need of making sure their septic systems work right all of the time. He also pointed out that people have been trying to create an action plan on this subject for years and it was interesting to learn that Dunes City was, at least at one time, considered a statewide leader in dealing with septic system issues. Vice Chairman Henderson pointed out that there must be consideration about how to prevent system failures. He noted that inspections help but one of the current issues is that there has been confusion over the requirements for inspecting vs. pumping—inspection does not mean pumping but some purveyors may take advantage of residents and recommend pumping in order to make more money. He summarized some of the key concerns: How can the City make sure inspections are done in a timely manner; how can the City educate residents that inspections and required pumping are the right thing to do; how does the City make sure that lakefront houses are inspected as frequently as necessary; how does the City determine inspection intervals for homes further from the lake; and, how frequently should pumping be required.

Chairman Gargis mentioned that he had heard a recommendation for a distance of within 250 feet of the shoreline. Mr. Burke pointed out that the majority of lakefront properties in Dunes City are less than one acre with many being narrow but deep. He went on to say that there are more small lakefront lots than there are one-acre lots and many of the lots have drainfields within 250 feet of the lake. At this point, he added, because of the mapping requirement the City knows where most of the houses and drainfields in the City are located. He also noted that it would be possible to create a database that listed all of the lots closest to the lakes but, because of City Staff's workload, outside assistance might be needed to create that database. Mr. Burke agreed in general with the concept of setting a specific distance between the lake and a drainfield.

Commissioner Allen pointed out that most of the comments agree with the idea of inspections on a reasonable frequency based on system load and having inspectors recommend the frequency of inspections. She asked if the intent would be to provide an inspector with the distance from lake information to consider in determining the frequency of inspection or whether the proximity to the lake would override the recommendation of the inspector. Chairman Gargis suggested that homes within the yet to be determined distance from the lake would have a different inspection schedule than homes further from the lake.

Mr. Burke explained that when Ordinance No. 210A was created the idea was that property owners would rely on the expertise of septic inspectors to determine the frequency of inspections and pumping. He noted that the inspectors' recommended frequency of inspection could be entered into the City's database and property records instead of the mandatory five-year interval required by Ordinance No. 203. He went on to note that all inspectors are licensed and required to work in accordance with standards set by the state and the federal government. Referring to the possibility of a franchise arrangement with inspectors, Mr. Burke pointed out that the City would have some control over the cost of inspections because the cost would be agreed to and approved by the City Council.

There was some discussion about the franchise agreement concept. Mr. Burke explained that the franchise agreement would be similar to that of the City's cable and garbage service providers under which a fee for services is agreed to and approved by the City Council for a contracted length of time. Mr. Burke went on to point out that the possibility of a franchise agreement with septic inspectors and installers should not prevent the Planning Commission from drafting language for a new septic ordinance.

There was a discussion about the \$50 inspection fee that is paid to the City, how it is used and whether it might be possible to allocate that revenue to a septic monitoring program. Mr. Burke noted that the City Administrator would be able to provide an explanation of how the money is used. He explained that, as far as he knew from working on the Budget Committee, the amount of the fee was requested by the City Administrator, approved by the City Council and is used to pay Staff to maintain the existing database and perform related tasks. Vice Chairman Henderson asked Staff to provide an update.

In further discussion about a franchise agreement, Commissioner Allen pointed out that most of the citizen comments showed a consensus for wanting to protect water sources but also a desire for an Ordinance that is fair to everyone. She noted that a franchise agreement would be one way for the City to make sure that the septic inspectors and installers are fair and honest. Mr. Burke noted that under a franchise agreement with the City, vendors would be held to certain standards and the franchise contract would include enforcement terms.

Referring to one of the citizen letters concerning Ordinance No. 203, Chairman Gargis asked if anyone knew the current phosphorus level in Woahink Lake. Mr. Keith Hull, who was in the audience, explained that since about 2006 when the first septic maintenance ordinance was adopted and phosphate reduction regulations were adopted by the state, the phosphorus level dropped from about 9-11 parts per million to about four and that has remained consistent for the last couple of years, according to a report prepared by Dunes City's water quality program Project Manager, Mark Chandler.

Chairman Gargis asked for comments about the idea for requiring more frequent inspections on properties closest to the lake or within a set distance from the lake. Commissioner Martin noted that there are scientific reports that explain requirements for septic drainfields but there does not appear to be a number for distance from a lake based on science. Commissioner Martin went on to note that he would support an ordinance based on scientific recommendations. Mr. Burke pointed out that everything the Commissioners have been discussing, except for a specified distance from the lake, is covered in Ordinance No. 210A in paragraph B on page four. He noted that while he agreed with stricter guidelines for lakefront properties, he was of the opinion that setting a distance could be overly cumbersome and it would be easier to use the term "lakefront property" as a descriptor.

There was some discussion about how to specify the inspection frequency for lakefront properties, such as using half of an inspector's recommended inspection interval. There was also some discussion about the option for a homeowner to ask for a second opinion about inspection results and how a franchise agreement could help the City to control cost of inspections for residents.

Vice Chairman Henderson summarized the general sequence of events relating to a septic inspection: 1) The City sends a homeowner a notice that a septic inspection is due and includes a list of the approved septic inspectors; 2) the homeowner calls to schedule an inspection; 3) the inspection is done and the homeowner is told the results of the inspection and whether or not pumping is required; 4) the inspector completes the paperwork required by the City and delivers it to the City along with the required fee; 5) the inspector provides the homeowner a copy of the City-required paperwork; and 6) the City updates the septic maintenance database. Commissioner Allen suggested that the City also send a letter to the homeowner to acknowledge receipt of the inspection documentation.

In further discussion about a franchise agreement, it was noted that there are inspectors who will recommend inspections or pumping more often than may actually be necessary so that they can make more money. With a franchise agreement, the inspectors would be held to standards set by Dunes City and their performance could be monitored so that dishonesty should be diminished or eliminated entirely. Vice Chairman Henderson pointed out that the franchise agreement could also give the City some collective bargaining power to lock in potentially lower rates. Mr. Burke pointed out that under a franchise agreement vendors *and* citizens would know the guidelines that vendors are given, information that could also be part of a septic education program. He also suggested that the City identify vendors who are inspectors only, not also pumpers, so that there is less opportunity for a vendor to recommend pumping when it is not actually necessary.

There was some discussion about the City's enforcement capabilities. It was noted that the County oversees the issuing of septic permits, is notified of septic failures and then issues compliance notices when a failed system is corrected, but otherwise the County does not monitor or require septic inspections. Mr. Burke pointed out that the City's new Code Chapter 36 gives the City Council authority to enforce some things but not all of them and partially eliminates the City Charter's requirement for a City municipal judge.

Commissioner Allen remarked that she thought Ordinance No. 210A did a good job of simplifying Ordinance No. 203 and making maintenance requirements more understandable. She went on to add that one thing missing from 210A but included in 203 is the requirement for an inspection when a home is sold. Mr. Burke pointed out that that is a requirement of state real estate law so it is not necessary for the City to include the requirement. Chairman Gargis noted that the inspection requirement is also part of a lending institution's requirement.

There was some discussion about the information in the City's septic database and whether or not it could, or should, be available to the public. Commissioners also discussed the possibility of receiving periodic reports from City Staff about septic inspection compliance. Mr. Burke pointed out that the generic information is available to the public upon request at City Hall but information about a specific residence likely would not pass legal scrutiny. He noted that the Planning Commission could ask for a report from Staff if it wanted to do so or recommend to the City Council that it receive an annual update.

Chairman Gargis asked for ideas for the next steps, noting that he would like to have City Administrator/Recorder Hilden's input on revising Ordinance No. 210A. Mr. Burke agreed that it would be helpful to have Mr. Hilden's feedback, but the Planning Commission could ask Staff to make its recommended language changes to the Ordinance and then send it on to legal for review, Mr. Hilden did not necessarily need to be involved in that.

Commissioners agreed to meet again in Special Session on December 11th to work on language revisions. In the meantime, Staff would provide suggestions for language changes and also solicit feedback from City Administrator/Recorder Hilden.

C. Chapter 155 Detached Building Code Recommendations

Chairman Gargis called for a short break at 4:45 pm and reconvened the meeting at about 4:50 pm.

Chairman Gargis opened discussion by remarking that he could not imagine anyone having a non-resident building over 32-feet tall in a residential neighborhood. His feeling, he added, is that an accessory building should be no larger than the square footage of the living structure and no higher than the living structure. Vice Chairman Henderson clarified that Chairman Gargis referred to the footprint of the main structure rather than the square footage because a residential space could be two stories tall, thus having double the square footage of the footprint area. Chairman Gargis concurred with that clarification.

Chairman Gargis pointed out that property owners could apply for a variance to construct larger buildings than permitted by City Code and the City would be required to notify neighbors within a specific distance from the property about the intent to build an over-size building. Mr. Burke noted that state law required notification to neighbors within 300 feet and that is included in City Code. During further discussion, Commissioner Allen offered to bring a copy of her CCRs for additional reference about building style, etc. There was some discussion about how to limit the size of an accessory building during which Mr. Burke pointed out that the City would have to allow buildings large enough to store motor homes and other toys enjoyed by City residents—a 30' by 80' building, for example, would be about the size of a six-car garage and about 2,400 square feet. He went on to note that during the request for a variance process, there would be published announcements of public hearings during which all residents would have an opportunity to express opinions about the building plans. Mr. Burke also noted that setbacks for large buildings could be written into Code as could requirements that an accessory building be constructed of the same or similar material as the main residence.

Chairman Gargis requested that Commissioners bring recommendations for the septic maintenance ordinance and accessory building code to the meeting on December 11th.

9. NEW BUSINESS – None

10. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA – None

11. ADJOURNMENT

The Planning Commission Special Session adjourned at 5:10 pm. There was no motion for adjournment, no second and no vote taken.

APPROVED BY THE PLANNING COMMISSION ON THE 11th DAY OF DECEMBER 2014.

[Signed copy available at City Hall]

Paul Gargis, Planning Commission Chairman

ATTEST:

[Signed copy available at City Hall]

Rapunzel Oberholtzer, Planning Secretary