



**CITY COUNCIL SPECIAL SESSION MEETING MINUTES ~ APPROVED
NOVEMBER 21, 2017 AT 3:30 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

1. CALL TO ORDER

Mayor Robert Forsythe called the November 21, 2017, special session of the Dunes City Council to order at 3:30 pm.

2. ROLL CALL

Roll Call was taken by City Administrator/Recorder, Jamie Mills.

Present: Mayor Robert Forsythe, Council President Sheldon Meyer, Councilor Alan Montgomery, Councilor Duke Wells, Councilor Tom Mallen, and Councilor Robert Orr. There is one vacancy on the Council.

Also Present: Administrative Assistant Rapunzel Oberholtzer, Mr. Jared Anderson, reporter for *The Siuslaw News*, and several Dunes City residents.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

Councilor Orr made a motion to approve the Agenda. Councilor Mallen seconded the motion. The motion passed by unanimous vote.

5. ANNOUNCEMENTS AND CORRESPONDENCE

City Administrator/Recorder Mills announced that the City received several documents of note: A Notice of ADA Action letter from Ms. Catherine Caudle; an email from Mr. Cameron La Follette of Oregon Coast Alliance requesting a hearing before the City Council on the South Coast Water District request for Woahink Lake water and also requesting that the City provide the public with all current information about the proposed Agreement and its potential repercussions; a Notice of Intent to Appeal from LUBA with Ms. Catherine Caudle as the petitioner—the City has twenty-one days to provide the record; a chain of emails from Ms. Catherine Caudle, who requested that they be part of the meeting record; and a letter from Ms. Mills to the Mayor and City Council members in response to an allegation of prejudice. City Administrator/Recorder Mills pointed out that copies of all of the documents were distributed to Councilors prior to the start of the meeting.

6. CITIZEN INPUT

Mayor Forsythe recognized Ms. Mary Jo Leach, who read from a prepared statement and requested that the statement be entered in its entirety into the record of the meeting:

“Regarding Application of South Coast Water to Pull water from Woahink Lake for residents living outside the Woahink Lake watershed.

“I attended the November 8, 2017, meeting of the Dunes City Council where the issue was addressed – I would direct everyone to the comments made from 36:38 to 38:36 on the Video recording of the minutes of that meeting. Mayor Forsythe and other councilors thought that it improper and arbitrary to consider this application prior to South Coast putting a business plan in place, ie: “straw” to pull water through, both Administrator Mills and the Mayor agreed that there was lots of time before they would have to consider the application; it was not set for consideration at any time in the future, including the Special Session, that is occurring today.

“Instead, it again is appearing on the agenda today, with no other additional documentation, nor explanation as to why it is again appearing so soon, when less than 2 weeks ago, it was agreed that “there was lots of time”. Staff told me today that it was put on there because it was only being put off until there was a full council to consider it – that is a completely false assertion – review the video minutes Ms. Mills said that there would be additional documentation and testimony presented today which would make the issue very urgent and demand immediate attention and approval; and that it had to get done today because she was not going to be present for the next council meeting, which had been announced in the meeting of November 8, 2017, prior to the first consideration of this app, and her absence was not going to present any problem at that time; further, council did not consider the app at all. Her absence in December does not lend any urgency to this request; it is also a false assertion.

“In the interest of transparency, this application should not be considered today; we are at a special session, on the Tuesday of Thanksgiving week at 3:30 in the afternoon. Many residents have much to say about this application and need to be given the opportunity to be heard. The Governor’s Solutions Team, and the Watermaster Recommendations have not been presented to the public for review. The usage that South Coast will take , is a known, and should be presented to the public for their consideration, as well as the present draw from Woahink which is mostly known by the homes using the domestic water program. The usage of Honeyman State Park, private water permit holders, and ODFW have to be considered as well.

“Woahink is not a bottomless bowl of water, it is very finite, and in this instance, we are talking about wholesale removal of large quantities of water from the watershed, never to be replaced.

*“I would like to see the Governor’s and Watermaster’s recommendations, and see what impact they took into consideration on **this** watershed.*

“I could have bought a comparable property on Siltcoos for approximately 100 thousand less than I paid to be on Woahink 14 years ago. It is probably more of a price premium now. I chose to spend that additional money to be in this watershed that had a viable water source, unlike Siltcoos. The people in the South Coast Water group have a crisis in that they need to establish a municipal water source – despite all the protestations, they will have to be able to afford it now.

“Spreading their financial grief into the Woahink watershed is not a viable solution, and will serve to put everyone on Woahink in grave jeopardy.

“When we moved here in 2004, we bought both a boat and a Honda PWC which we installed on our dock on a lift. The water levels in Woahink have continued to drop, I do not know why, but as of 2013, the PWC could no longer be launched because the water level had receded and instead we had sand. We sold the PWC. It is unfathomable what will happen when all the water in this watershed is exported forever.

“There is 37 feet of drop between Woahink and Siltcoos, and the lowering of the dam level is most assuredly adversely affecting the level in this lake, and destroying the instream water-right of ODFW.

*“There needs to be a full environmental impact report prior to allowing this application to proceed, and the public’s opportunity to take part in this decision. Jeopardizing everyone in the Woahink watershed is not a viable, nor long-term solution to water problems occurring outside **this** watershed.*

“I ask the Council to appoint a committee (CAC) to gather all the pertinent facts and prepare them for presentation, allowing public input to that committee and expert testimony prior to considering this application. An EIR must be prepared prior to making this critical, life-changing decision for all depending on Woahink as a water source.

“Respectfully, Mary Jo Leach”

ABOVE COPIED EXACTLY AS WRITTEN BY MS. LEACH. A COPY IS ON FILE AT CITY HALL.

Ms. Leach requested that a copy of an email she received from Ms. Catherine Caudle also be written into the record. (To protect the privacy of individuals named below, email addresses have been omitted.)

*Subject: Fw: South Coast Water District
From: catherine Caudle
To: Robert Forsythe, Sheldon Meyer, Alan Montgomery, Robert Orr, Tom Mallen, Duke Wells
Cc: Dunes City Admin
Date: Tuesday, November 21, 2017 11:38 AM*

See below

There are two options on the page for the water issue you will be reviewing today. Seems we are only being told of the one option and that option doesn't include Dunes City receiving a fee for use by the water district. What amount of fee should the city receive? Should it be like the franchise fee on an annual basis well above the 100 each of use already pay? These questions need to be answered. But maybe we shouldn't do this at all seems option II should have been option I anyway.

*The **other option is to upgrade the aging existing water lines.** So the answer is shall the city enter into an agreement with a corporation to allow permitted use of our water or shall the city deny this application and thereby allow South Coast to invest funds into their aging water lines as option II?*

Seems if I owned a business and deferred maintenance came due and seems if I applied for loans to upgrade those lines I'd go with option II. If South Coast still owns the water right on Siltcoos what will they do with it? They could sell it thereby hurting other homes along the Siltcoos. Something to think about. What would be done to help those homes? Could that action affect the buildability of other lots thereby hurting revenue for Dunes City?

This agreement is not dire as potable water is available.

I spoke to Randall from South Coast Water District today and he agrees that more information is needed. He confirms that as of today he still does not have an easement right to get to Woahink Lake.

We can all agree that South Coast Water District needs to upgrade it's aging water lines. We can all agree that Woahink lake water is superior to Siltcoos water, but that shouldn't be the reason for this agreement.

Catherine Caudle

—Forwarded Message—

*From: Murphy Melissa *BIZ
To: Catherine Caudle
Sent: Tuesday, November 21, 2017 11:04 AM
Subject: South Coast Water District*

Good morning Catherine,

*I believe you're referring to the current project we are working on with South Coast Water District which will implement a new water intake **or make upgrades to the existing one.** I believe SCWD is working with Dune City to negotiate a fee of some sort and once that is determined we will know which option SCWD would like to move forward with.*

I wish we could help you more but at this point I suggest talking to SCWD and Dune City about the project and if we need to reevaluate the project we can definitely do that. The city and SCWD are very aware of our funding programs and how we can help.

Melissa Murphy

*Regional Development Officer – Linn, Lane, Benton, Lincoln
Business Oregon*

ABOVE COPIED EXACTLY AS PRESENTED BY MS. LEACH. A COPY IS ON FILE AT CITY HALL.

Mayor Forsythe recognized Ms. Catherine Caudle, a Dunes City resident who said that she would talk about Senate Bill 929, the Support Oregon Pollinator Protection Act created to help protect pollinators. She went on to say that in Dunes City pollinators are needed for huckleberries and other plants, but pollinators are being destroyed by chemicals. She went on to note that Portland and Eugene have passed ordinances banning the use of the chemical that kills more than one third of the pollinators that help Oregon grapes, strawberries, blueberries. She explained that she would like to see Dunes City adopt a similar ordinance to ban chemicals that are killing pollinators and will eventually reduce bird, deer and bear populations. She noted that other states have already passed laws banning the chemical. Ms. Caudle went on to explain that the neotides [*sic*] are sprayed on seeds people use to grow flowers and vegetables so that the seeds will grow, and when the pollinator pollinates the flowers or vegetables they take the chemical back to the hive and kill the hive. She closed by saying that she hoped Dunes City would consider a ban on the pesticide and provided a copy of a handout describing SB 929.

A COPY OF MS. CAUDLE'S HANDOUT IS ON FILE AT CITY HALL.

Mayor Forsythe recognized Ms. Susie Navetta, a Dunes City resident who read from a prepared statement.

"In the last few years Dunes City committees were put to rest. These committees were vital to help the city run. It took over 60 volunteers to fill the positions. Today we are no longer a community. We have lost our way. Our volunteer system made our city a better place to live. Dunes City does not have taxes. With limited resources we need volunteers. Our Comprehensive Plan states that we are to have committees. Our transparency has disappeared.

"In the last few years we have not had a Newsletter to let folks know what is going on in our city. Our transparency has disappeared.

"Again, in the last few years we no longer have:

"The Festival of the Lakes (food, fun, education, talent show, and music),

"The Spring Banquet,

"The Festival of the Lights (Santa visit),

"Round table discussions,

"Monthly meetings with our Lane County Commissioner

“The city needs to step back and look at the big picture because our transparency has disappeared.”

A COMPLETE COPY OF MS. NAVETTA’S STATEMENT IS ON FILE AT CITY HALL.

Mayor Forsythe recognized Mr. John Stead who reminded Councilors that Dunes City needs to develop a Water Management and Conservation Plan to identify how the City would limit the instantaneous usage of its domestic water right of 1.4 cfs, according to a letter from the Oregon Water Resources Department dated July 22, 2003. He went on to say that he suspects the City may still be waiting.

City Administrator/Recorder Mills explained that the Plan was submitted.

Mr. Stead continued by saying that the Ordinance that would allow the City to enter into an agreement between the City and South Coast Water District for Use of Water Right under the City’s Shared Domestic Water Supply Program is titled Shared Domestic Water Right. In Ordinance No. 231-A, paragraph 51.20 defines an “applicant” as “an individual who owns property in Dunes City who applies to Dunes City for a permit to share Dunes City’s domestic water right permit for diversion of water from Woahink Lake.” Mr. Stead noted that an applicant would have to be an individual. He went on to say that the definition further states that “Each applicant shall provide legal access, by easement appurtenant to the land or by fee simple absolute, for the water line between the point of diversion and the point of use.” Mr. Stead said that he suspected they want to use the existing right of ways. He went on to propose, if that is the case, they should pay the same franchise fees as Central Lincoln PUD.

Mr. Stead went on to provide the definition for “domestic use” as written in Ordinance No. 231-A, “Water used for all domestic purposes including, but not limited to, human and pet consumption, bathing, food preparation, and personal and household hygiene, and for the irrigation of not more than one-half (1/2) acre of landscaping.” He also provided the definition for “point of diversion” which is, “A surveyed location of where water is diverted from Woahink Lake.”

7. OLD BUSINESS

A. Appointment of Individual to Finish the Remaining City Councilor Term of Robert Forsythe (Term Ending January 9, 2019)

Mayor Forsythe reminded everyone that this matter was carried over from the last meeting because there was not a full Council present at that meeting. He noted that in the last meeting, the ad hoc committee formed to interview all of the applicants recommended two individuals, Terry Duman and Susan Snow. Councilor Wells, a member of the ad hoc committee, noted that all of the applicants were very qualified but he recommended Susan Snow because, although she has not lived in Dunes City for very long, she could bring a fresh perspective to the Council.

Councilor Mallen explained that he recommended Terry Duman, but after the last Council meeting he received a number of telephone calls about his recommendation. He went on to say that he followed up on all of the comments he received and changed his mind—he would support the recommendation of Susan Snow.

Councilor Orr made a motion to approve Ms. Susan Snow as the new Council member. Councilor Mallen seconded the motion. The motion passed by unanimous vote.

B. Appointment of Representative to Lane ACT

Mayor Forsythe noted that the Lane ACT meetings conflict with Dunes City's Council meeting dates and, although the meetings can be attended by telephone, it is not the most convenient way to participate. Following discussion, Mayor Forsythe suggested that City Administrator/Recorder advertise for a citizen volunteer to attend.

8. NEW BUSINESS

A. Request for Engineering of Drainage Issue

Mayor Forsythe announced that this issue affected one of the City Councilors, Councilor Mallen; consequently, Councilor Mallen could not vote on any action the Council chose to take.

Councilor Mallen wished to address the Council, and he stepped down from the dais to do so. Councilor Mallen introduced himself and announced that the issue is drainage from water runoff on Clearwater Cove Way, where he lives, onto his property. He referred Councilors to copies of photos of his property (included in meeting packets) that show water accumulating next to one of his buildings, culverts and other drainage facilities. He went on to explain that Dunes City's Public Works Supervisor, Richard Palmer, had dug trenches along the driveway in an effort to divert the runoff. Councilor Mallen emphasized that there are storm drain manholes on Clearwater Cove Way, but runoff is not getting into them; instead, the water runs onto his property causing erosion and causing his water line and plumbing lines to become exposed. Councilor Mallen is requesting that the City's Engineer inspect the area and make a recommendation for a solution. He went on to say that he had been informed by City Administrator/Recorder Mills that the Engineer's estimate for inspection was \$2,000 to \$5,000. He noted that, in his opinion, this issue was not a matter for the Council, whoever owns the road needs to fix it, or if the road builder is responsible for improperly constructing the road, the builder should be responsible for correcting the problem. Councilor Mallen concluded by saying that he was formally requesting the Engineer's inspection and recommendation.

City Administrator/Recorder Mills explained that the City's Engineer estimated a cost of about \$2,000 to review the construction plans and determine whether or not the road was built according to those plans. She went on to note that it would cost more if the Engineer determines that the plans were not adequate and additional engineering would be needed.

Mayor Forsythe recognized Mr. Richard Palmer, who was present in the audience. Mr. Palmer explained that he had seen Councilor Mallen's property; in his opinion, there is a culvert improperly installed and it appears that the road drainage system was never completed. Mr. Palmer suggested reinstalling the culvert correctly, possibly adding a French drain, and finishing the road work properly.

There was some discussion about what could be done. City Administrator/Recorder Mills pointed out that Clearwater Cove is a Dunes City road. She also noted that Councilor Mallen's driveway apron is not completed. Mayor Forsythe suggested that City Administrator/Recorder Mills contact the City Engineer to make arrangements for an inspection and recommendation. There was further discussion. It was generally agreed that the situation warranted the City Engineer's inspection and recommendation.

Councilor Wells made a motion to direct the City Administrator to send the City Engineer out to inspect the road. Council President Meyer seconded the motion.

Councilor Montgomery recused himself from voting due to other drainage issues.

With Councilor Montgomery's abstention, the motion passed with four votes in favor and none opposed.

B. Agreement for Use of Water Right Under Shared Domestic Water Supply Program Between Dunes City and South Coast Water District

City Administrator/Recorder Mills noted that Mr. Randy Reitz, owner of South Coast Water District, was present in the audience to answer questions.

Mr. Reitz explained that he has owned the water system since 2001 and has almost always had trouble getting water from Siltcoos Lake, especially the past two years. He went on to explain that the State became involved last year and helped SCWD get funding for a new water source and new intake. He noted that the funding will also enable SCWD to move its water treatment plant to the location of the water storage tanks and he is working with the Sunset Cove HOA on an agreement to use one of Sunset Cove's existing intake points to draw water from Woahink and deliver it to the new treatment plant. He went on to explain that part of the agreement between SCWD and Sunset Cove is that SCWD would deliver treated water to the property owners in Sunset Cove, who would become customers of SCWD. The agreement with Sunset Cove would allow three of their water permits to be returned. Mr. Reitz also noted that SCWD has gone through all of the permitting processes with Lane County and OWRD and although the issue is not urgent, SCWD has the funding and is ready to get started on the changes.

Mr. Reitz explained that he is only seeking a water permit from Dunes City, not a water right, SCWD already has a water right on Siltcoos.

Councilor Wells asked for clarification of who would be using the water. Mr. Reitz noted that only Dunes City residents would get the water, SCWD has no plans to truck water elsewhere.

Council President Meyer asked why water couldn't be taken from Woahink Creek after it has left Woahink Lake. City Administrator/Recorder Mills suggested that Councilors address her disclosure letter to the Council and then she could answer the question.

Mayor Forsythe read Ms. Mills' letter aloud:

"Dear Mayor Forsythe and City Council Members:

"This letter is written to advise you that I am a customer of South Coast Water District.

"Neither I, nor any member of my household, holds any financial interest in South Coast Water District or Oregon Water Services, other than being a water delivery customer.

"Neither I, nor any member of my household, will receive any financial gain or detriment as a result of your decision regarding the deliberation of approval or disapproval of the proposed Agreement for Use of Water Right Under the Shared Domestic Water Supply Program of Dunes City Oregon with South Coast Water District, Inc., an Oregon Corporation.

"Please enter onto the record, by way of decision duly voted upon, whether this information will or will not influence your decision in this regard."

Councilor Montgomery made a motion that he does not think that Ms. Mills is being influenced and will not influence the Council's vote. Council President Meyer seconded the motion. The motion passed by unanimous vote.

Council members disclosed their own water sources.

City Administrator/Recorder Mills explained that the Woahink Creek water belongs to the State, is considered instream water and cannot be used by anyone.

Councilor Orr asked if by granting SCWD a permit, additional water would be taken from Woahink or if the water would be a different way to get water to the SCWD customers. Mr. Reitz explained that the water would be a different water source for SCWD using an existing diversion point. Councilor Orr asked for an estimate of the amount of Woahink water that would be used. Mr. Reitz explained that SCWD's water right from Siltcoos is .14 cfs, but SCWD uses only about half of that for its Dunes City customers.

City Administrator/Recorder Mills referred Councilors to a copy of a 2005 Final Order from the Water Resources Department that was on the dais and to a color-coded map of Dunes City showing the quarter quarter sections authorized to use Woahink water under the City's permit. She went on to explain that the City is required to provide Woahink

Water, a Dunes City asset, to all of its residents living in Dunes City and is precluded from discriminating against residents who do not live on Woahink Lake. She noted that the City's permit allows for delivery to every property within Dunes City's limits. She also noted that the City's reported usage last year was .11 cfs and the permit has a limit of 1.4 cfs—SCWD's request to use .14 cfs, combined with Dunes City's .11 cfs will not come close to using the permitted amount of water.

There was some discussion about how using additional water from Woahink would affect Siltcoos Lake in terms of reducing the amount of water flowing from Woahink to Siltcoos. Councilor Montgomery asked if SCWD's water system could be expanded to serve more customers. Mr. Reitz explained that his .14 water right allows SCWD to serve a potential of 140 homes; SCWD currently serves 85 homes, with the acquisition of Sunset Cove it would serve 100, the most that SCWD can accommodate with its current equipment.

Councilor Orr asked why SCWD would need a permit for Woahink water if SCWD has a Siltcoos water right. City Administrator/Recorder Mills explained that the Siltcoos water right is not transferrable to Woahink and no more Woahink water rights are being issued—Dunes City owns one of the last rights that allows the City to share its right with City residents. She went on to point out that although the permit allows plenty of water for all residents there may be times when the City would not be able to store water and still meet its requirements for instream flows, in which case the domestic need preempts instream flow.

Councilor Wells made a motion to approve the Application for shared water. The motion was seconded by Councilor Mallen.

In further discussion, Council President Meyer and Councilor Orr noted that they did not want to delay the approval process, or deny the application, but felt they needed more time to think about the issues. City Administrator/Recorder Mills agreed to try to arrange for the Water Master to attend a meeting to answer questions as well as, possibly, a representative from the Sunset Cove HOA.

In a roll call vote, Council President Meyer and Councilors Montgomery and Orr voted against the motion. Councilors Wells and Mallen voted in favor. The motion failed.

Council President Meyer and Councilors Montgomery and Orr explained that they were in favor of providing good water but they all needed more information. Mayor Forsythe asked City Administrator/Recorder Mills to try to schedule Susan Douthit, the Regional Water Master, or someone from OWR to attend the December 13 meeting.

C. POW-MIA Flag Mandate

City Administrator/Recorder Mills explained that the State legislature recently passed HB 2880, which requires cities to display the POW/MIA flag on any city building. She noted

that the cost to purchase the flag is about \$100. Mayor Forsythe donated \$20, as did Council President Meyer and Councilors Montgomery and Wells. Resident Wesley Caudle also donated \$20.

9. PUBLIC HEARINGS

There were none.

10. EXECUTIVE SESSION

There was none.

11. FOR THE GOOD OF THE ORDER

City Administrator/Recorder Mills explained that the State of Oregon prohibits cities from regulating pesticides. Mayor Forsythe offered to look into the issue and report back.

City Administrator/Recorder Mills clarified that a citation has not been issued to the person who vandalized City Hall in October. She distributed copies of photos from the security cameras on site.

12. ADJOURNMENT

Councilor Orr made a motion to adjourn. Councilor Mallen seconded the motion. The motion passed by unanimous vote.

Mayor Forsythe adjourned the meeting at 7:05 pm.

APPROVED BY THE DUNES CITY COUNCIL ON THE 13th DAY OF DECEMBER 2017.

[Signed copy available at City Hall]

Robert Forsythe, Mayor

ATTEST:

[Signed copy available at City Hall]

Jamie Mills, City Administrator/Recorder