

AGENDA
REGULAR MEETING
OF
DUNES CITY COUNCIL
OCTOBER 16, 1980

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- IV. REPORTS
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 - 1. SIUSLAW SANITARY SERVICE-POSTPONED BY MIKE JOHNSON REQUEST
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XII. ADJOURNMENT

DUNES CITY, OREGON

DUNES CITY COUNCIL
REGULAR MEETING
OCTOBER 16, 1980

I. CALL TO ORDER AND ROLL CALL

The regular meeting of the Dunes City Council was called to order by Mayor Merz at 7:36 P.M. on the 16th day of October, 1980.

ROLL CALL

Present: Mayor Merz, E. Fillman, J. Gwilliam, D. Brown, P. Tout,
City Attorney Gerber, City Recorder B. Stocking, Secretary
D. Stinger

Absent: B. Petersdorf (arrived later at 7:55)

II. ANNOUNCEMENTS

There will be a workshop for public officials held at the Siuslaw High Scholl, regarding land use decisions, public law, etc., held on October 17, 1980, Friday. There is a fee of \$10. Registration starts at 2:30 and the workshop begins at 3:00. It will run until 9:00 with a dinner break at 6:30. All members of the City Council and Planning Commission are urged to attend. The City will reimburse them the \$10 fee.

Mayor Merz stated that correspondence was received from the League of Oregon Cities. She stated that Dunes City no longer is a member of this because they chose not to pay the dues this year. The sessions are still available to us if we want to attend.

III. CITIZENS INPUT ON UNSCHEDULED ITEMS - None

IV. REPORTS

There has been a road report from road committee chairman Ira Mann. The road paving contract has been completed on Sala St. from Clear Lake Road to the intersection of Russell Lane. Also the paving on Wright Street from Huckleberry to the South Loop of Woahink. This making a total of 900' paved this year. Not included in this 900' is a hot asphalt strip at the intersection of Huckleberry and N. Woahink Loop. Mr. Mann also stated that they have aptched verious streets to prevent potholes, etc.

Also Mr. Mann requested that the Council act on his request of having mileage reimbursement of 17¢ per mile in addition to the \$50 per month salary. He stated that he puts in alot of volunteer time and alot of mileage is put in traveling on the City roads and checking them out. The \$50 salary is not even covering his gas cost.

The Council had a small discussion on the amount of miles that Mr. Mann puts in and if theydid decide to reimburse him for his mileage, should there be a limit to the amount of mileage per month.

Mr. Brown made a motion that the City give Mr. Mann the 17¢ per mile mileage reimbursement that he requested. Mr. Tout seconded.

In discussion the Council talked about whether they should put a limit on the mileage per month that could be turned in each month. It was felt that this leaves it an open book. The Council is not aware of how many miles Mr. Mann puts in per month. It was decided that sometimes it is alot and other times it is not as much.

Mr. Brown amended his motion to state that there be a limit of 50 miles per week put on the request and at the end of the quarter, there be a review made by the Council to see if this is adequate for the amount of driving that is done by Mr. Mann.

Mr. Tout seconded and the motion carried.

V. PUBLIC HEARINGS

Conditional Use Permit - Lorraine Sherman, 5236 Russell Drive, Florence, Oregon

The Public Hearing for Lorraine Sherman was opened at 7:40 P.M. Mrs. Sherman is asking for a Conditional Use Permit to raise small livestock on her property at 5236 Russel Drive.

Planning Commission Chariman Tom Hunt gave a report of the Pulic Hearing that was held on October 15 with the Planning Commission. He stated that there had been some discussion on having the Lane County Sanitarian go to the site and inspect it for sanitation and to table the decision on the issue until there was a report from the sanitarian. There was a motion totable the issue and wait got the report from the sanitarian but it died for lack of a second. He also stated that the Commission did decide to go ahead and go through their Findings of Fact and Conclusions of Law and to make a decision on the issue that night. Mr. Hunt stated that the Sherman's left the meeting just as the Commission started doing their work, so they were not present when the Commission made their decision.

The secretary read a letter from Mrs. Sherman into the record. The letter stated Mrs. Sherman's feelings on the decision that was made by the Planning Commission.

Mr. Hunt read the Findings of Fact and Conclusions of Law found by the Planning Commission and gave the recommendation to the City Council from the Planning Commission. The Planning Commission recommended to the City Council that the request for a Conditional Use Permit to raise small livestock on the Sherman's property, be denied.

Mr. Hunt responded to the letter that was sent by Mrs. Sherman. He stated that he felt that Mrs. Sherman may have gotten confused when he reopened the Public Hearing to read the letters in opposition into the record. As they left, apparently they felt that the Commission was tabling the issue until the sanitarian inspected the site and they felt that the Commission making the decision to deny was unfair, especially since they were not present when

the decision was made.

Mayor Merz suggested to Mr. Hunt that he send a letter explaining what took place and explaining the procedure that the Planning Commission goes through, to Mrs. Sherman along with a copy of the minutes of the meeting.

Mr. Hunt then gave a short review on what basis the Planning Commission made their decision on.

Mr. Darrell Helmuth, 83570 Woodland Lane, Florence, Oregon, gave some testimony in opposition to the Conditional Use Permit. He stated that he could detect an odor from the livestock at certain times. He is about three or four lots down from the Sherman's.

The Council had some discussion on the possibility of screening the pen area with shruberry since it is visable from the Lot "A" of the Marlago Subdivision. Mr. Helmuth stated that the pollution would still be there no matter how well you screened it from site.

There was more discussion on whether the chickens would be allowed since it seemed that the pigs were the biggest concern.

Mrs. Betty Stocking, Russel Drive, Florence, Oregon, objected to the chickens along with the pigs. There is still manure from the chickens and an odor too.

The Public Hearing was closed at 8:25.

Mr. Fillman made a motion to accept the Findings of Fact and Conclusions of Law found by the Planning Commission and accept their recommendation to deny the request for a Conditional Use Permit, by Lorraine Sherman, 5236 Russell Drive, Florence, Oregon.

Mr. Tout seconded.

Ayes: Fillman, Merz, Gwilliam, Tout, Brown

Noes: Petersdorf

Pubilc Hearing

Street Vacation - Norman Beeman

Mr. Hunt reported to the Council that the Planning Commission held a Public Hearing on this issue and Mr. Beeman's request to vacate a portion of Ocean Blvd. that adjoins property that he wishes to buy. There was quite alot of testimony against the vacation and several letters in opposition to the vacation taken by the City. As the Planning Commission went to find the criteria for doing a street vacation, they found nothing in the Zoning Ordinance. After some time of looking back into old records they found that the City Charter stated that a street vacation has to be done by an ordinance and also the Commission found that there is State Statue that the applicant must have the signatures of all property owners within 200' of the street. The Commission then made a recommendation to the Council that Mr. Beeman's fee for the street vacation procedure, be reimbursed to him since he was not properly informed of what he needed to have the street vacated.

Mr. Hunt then stated that the Commission took no action because the application was improperly filed.

Mayor Merz stated that she was responsible for the information that was given to Mr. Beeman.

The Public Hearing was closed at 8:18.

Mr. Gwilliam made a motion to accept the Planning Commissions recommendation to give Mr. Beeman back his fee that he paid for the Street Vacation proceedings. Mr. Tout seconded and the motion carried.

Mayor Merz requested of the Council that the City Secretary be issued keys to the files in the office. In the past the Council has refused stating that two sets of keys beings out is enough. The Recorder has a set and the Accountant has a set. Mayor Merz stated that the secretary has to work in the office at a different time then the recorder and it is necessary at times that she be able to have access to those files.

Mr. Gwilliam asked if Debbie Stinger was bonded by the City and Mayor Merz stated that, yes she was.

Mr. Gwilliam made the motion that an additional set of keys to the files in the City office be issued to Debbie Stinger, City Secretary. Mr. Petersdorf seconded and the motion carried.

VI. APPROVAL OF MINUTES

Mr. Petersdorf made a motion to approve the minutes of September 11, 1980 with any corrections and Mr. Brown seconded and the motion carried. There were no corrections to the minutes.

VII. BILLS AGAIST THE CITY

The bills against the City totaled \$1781.88. Mr. Tout made a motion that the bills be paid. Mr. Brown seconded and the motion carried.

VIII. RECEIPTS OF SESSION - \$13,619.94

Mayor Merz stated that the receipts are extra high this session because the City cashed in some TCD Bonds to pay for the street paving that was done.

Mr. Gwilliam asked if the office had any sort of chart of the Building Permits that are issued so that the Council could have a better recollection of where they are and what is going on with them. Mayor Merz suggested that he go to the office and review what they have and see if this is what he would like to see done.

IX. CORRESPONDENCE

Mayor Merz read some correspondence from the Boundary Commission. They sent a fee schedule for the Council to comment on. Before they had requested that the City pay a \$70 fee to keep the Boundary Commission funded. All cities refused so they put together a fee schedule that will go on the people appearing before them for Public Hearings.

The Council had some discussion on the fact that the cities turned down the

Boundary Commission yet they still insist on a fee from the people. The Council felt that this was in conflict with what the people want..

Mr. Gwilliam made a motion that the City Recorder send a letter to Lee Johnson of the Boundary Commission stating that this is not what is wanted and that the City of Dunes feels that this is objectionable to fine the citizens when the Boundary Commission is not wanted anyway. Mr. Brown seconded and the motion carried.

X. OLD BUSINESS

Siuslaw Sanitary Service - Postponed by Mike Johnson: This was on the agenda and Mr. Johnson requested that it be postponed because he had to be out of the State of Oregon. The sanitation thing has been on our agenda for about three months running and one of the reasons for the rate increase was because of the Lane County Dump Fee increase. The County has now decreased the dump fees so the Council should keep that in mind when it comes up again.

Mr. Don Lempke and Little Woahink Conditions - Mr. Gerber reported on this. He stated that it came to his office because none of the Council was present last week to answer questions. They are selling lots in Little Woahink now. There has been a party that has purchased a lot and wants to build a dome house on it. The conditions for Little Woahink have not yet been completed. What the Council needs to do is to go over the problems that are still going on at Little Woahink. He did state that he didn't think that Dunes City had the authority to refuse any building permits in Little Woahink.

The Council had a discussion on the erosion and the streets in Little Woahink. It was said that this has been going on for a number of years but it appears that Mr. Lempke is now working on landscaping the erosion areas.

There was some testimony from Dan Scarberry, from Coast Real Estate, who is selling the lots in Little Woahink. It was also stated that they are aware of the fact that "stick" built homes only will be allowed in the Little Woahink Subdivision.

Mr. Gerber stated that the City has to either issue building permits or cancel the subdivision.

It was then discussed that the City can issue building permits but this does not mean that the buildings can be occupied. There had to be proper sanitation and water facilities for the homes.

The Council decided that the records should be gone over and the original conditions on the subdivision be found. More information is needed on this.

The Council went into recess at 8:55 and reconvened at 9:25.

Robert Witt - Land Partition and Variance Conditions - The Council heard the report from the committee that was appointed by Mayor Merz at the last Council meeting to observe and review the water system that was to be put in on the Sitt property by Mr. Witt for the Reavis and Camera households. This was a condition to the granting of Mr. Witt's variance. Mr. Brown was the chairman of this committee and he gave the report. He stated that the system appears

to be partially completed. He stated that the water basin has not filled up with water and that it does have mud in the bottom of it. Mr. Tout stated that he talked to one of the contractors doing the work and that they stated that the water as it is coming up is being stopped somewhere and that the prospects of the basin filling looks poor. Mr. Brown stated that the system appears not to be working.

The Council had some discussion on the idea of having Mr. Witt put in a well for these people. It was discussed and Mr. Gerber stated that the City didn't really have the authority to tell Mr. Witt how to resolve the water problem just that they could put a condition on his variance that he does solve the water problem.

Mr. Witt stated that the work was not completed because the contractor was out of town and because of the recent drought, the basin will not fill.

Mr. Bob Camera, Kiechle Arm, Florence, Oregon stated that he felt that they have been put off long enough and that he didn't want to see Mr. Witt get any more time to complete this.

Don Perkerson, Rt. 2 Box 635, Prineville, Oregon spoke on the matter. He stated that he vacations in a cabin that is next to the Reavis property. He said that he has been using water from the Reavis's for years because his well is not sufficient for his needs although he only comes here now and then. He said that the water now is not as good as it has been in the past.

Mr. Witt asked the Council for another 30 days to have the water system completed. He felt that the problems could be resolved in that 30 days.

Mr. Tout made a motion to grant Mr. Witt another 30 days to complete the work, Mr. Petersdorf seconded.

After some more discussion on the matter, Mr. Petersdorf withdrew his second to the motion and the motion died for lack of a second.

Mr. Reavis stated that this has been going on for over a year and he didn't feel that Mr. Witt should get another extension. He has received several extensions in the past.

The Council discussed some other things that Mr. Witt could have done to get the system working.

Mrs. Reavis stated that she didn't see what could be done to that "hole" in the next 30 days to improve the water at all.

Then the question was brought up if the Major Partition had been granted before on the condition that the conditions of the variance were met. The Council was not sure on this so the records were checked by Mr. Gerber. Mr. Gerber stated that the Major Partition was granted on March 13, 1980. The variance would be granted if the conditions of the variance were met. The Major Partition would be revoked if the variance were not granted. The conditions for the variance was that Mr. Witt get a written signed agreement from Mr. Toffel to have the Reavis and Camera's water system on his property, which would include the right to move the basin an extra 10' up stream. Mr. Witt couldn't do this because Mr. Toffell refused and so the City presented Mr. Witt with a "show cause" for not

coming through with the conditions set. Next the Council set an agreement with Mr. Witt to get some sort of water system on his property for the Camera and Reavis households within 30 days. This is where we are now. The 30 days is up. Mr. Witt was told that his variance would be approved if he did this.

Mr. Gwilliam made the motion that the request for the variance be denied.
Mr. Brown seconded.

Ayes: Brown, Gwilliam, Petersdorf

Noes: Tout

The motion carried.

The record shows that Mayor Merz abstained. Merz recently had litigation with Mr. Witt. This is stated in the first meeting in 1979.

Mayor Merz stated that everyone that has testified in the last year on this issue will have to be notified.

XI. NEW BUSINESS

Consideration for filling vacancy on the Planning Commission - The Planning Commission has recommended to the City Council that the vacancy in the Planning Commission be filled by Maxine Baumeister.

Mr. Tout made the motion that the Council accept the Planning Commission recommendation. Mr. Brown seconded and the motion carried.

The City Council has a vacancy since Gwen Slocum resigned. Mr. Jim Baumeister has applied for that vacancy. The City has requested an opinion from the Attorney General regarding husband and wife serving on the Council and Planning Commission. In the legal research we have done, it is permissible but we have written a letter to the Attorney General asking his opinion. The remainder of Mrs. Slocum's term is two months.

Mr. Brown made the motion that the Council accept Mr. Baumeister's application to fill the vacancy in the Council for the remaining two months of Mrs. Slocum's term. Mr. Fillman second. The motion carried.

The Council discussed a letter sent to the City from Mr. Groslinger expressing his desire to hold church services in the Community Building on Sunday mornings and Sunday evenings starting the first Sunday of 1981.

The Council discussed the matter and whether there would be any fee charged since this would be a non profit organization or if the fee should be lowered. It was suggested that there be no fee charged until Mr. Groslinger finds if he will have a following or not.

It was stated in Mr. Groslinger's letter that he would like to start this as a community service to Dunes City.

Mayor Merz stated that she would look into the kind of Church that Mr. Groslinger is wishing to start. What she wants to clear with the Council is do they have any feeling against this now and what would the fee be, if not.

It was said that the fee would probably not be the \$25 per day as it is regularly.

Mayor Herz stated that she would like to see this building used more for the community in whatever ways would be a service to them.

The Council then had some discussion on the Sportsman Club and their use to the building. It was felt that they were not pullin their weight as far as maintainence and care of the building. Even though they did give it to the City they still have obligations.

Mr. Gerber gave an update on the Martha Jakob proceedings. He asked the Council if they would like him to cross appeal the appeal. Mr. Fillman made a motion for Mr. Gerber to go ahead. Mr. Brown seconded and the motion carried.

The meeting adjourned at 10:35.

Philip M. Herz
MAYOR
R. L. Albert

Debra K. Stinger
SECRETARY

Lucy Fillman

Phil Tont

James E. Beaumont

DUNES CITY COUNCIL

REGULAR MEETING

OCTOBER 16, 1980

ROBERT WITT - LAND PARTITION AND VARIANCE CONDITIONS

The regular meeting of the Dunes City Council reconvened from a short recess at 9:25 P.M. on the 16th day of October, 1980. The next item on the agenda was the Robert Witt Land Partition and Variance Conditions.

Mayor Merz explained that at the last Council meeting the Mayor appointed a committee to oversee Mr. Witt, as the Council had instructed Mr. Witt to build a sister water pit for a water source for two family homes, the Gerald Reavis family and the Bob Camera family. This committee consisted of Mr. Brown, Mr. Fillman and Mr. Tout. Mr. Witt had a certain time limit to meet. Mr. Brown was the chairman of that committee.

Mr. Brown: The committee did inspect the proposed location of the water system and then when the work was done they made another inspection of it. At my lastest inspection, this was today, I also saw it earlier this week, it appears to be partially completed. The excavation was done, two pipes were placed in position and part of the earthen dam has concrete applied to it. It would appear that the ditch for drainage and runoff has not been completed. At this point it is not filling up with water. It is only partially full, maybe only a third full. The water is muddy. The existing water system on the other side of the road is still in operation, although I understand that there has been some problems with that. It is low on it's level yet still continuing to run. This is as of my observations of this afternoon. This is where we are.

Mr. Tout: I might add, that I talked to one of the representatives of the contractor that is doing the work, yesterday, and he said that it appeared to be that as the water level came up in this sump hole, it was building up head pressure and is stopping, either a subteranian river or a stream or a spring or whatever that source was that was at the base of that tree. Apparently it is building up enough head that it would no longer increase in height. It just wasn't filling any farther up. And without filling that sump, there is never going to be enough water to go down and service the other properties. The prospect looked real good when he talked to me on the phone. I don't have a better suggestion at this point.

Mr. Brown: I think that the other thing that is obvious when you look at it is that the runoff that exists from the side of the roadway and also the surrounding terrain, runs directly into it. There is really nothing to keep it from doing that. A number of us had discussed at the time that if this were the

system that were going to be used it would probably have to have some kind of cover or screening to prevent other things from getting in there. But it doesn't appear to be working anyway. If it doesn't work now before we have the heavy rains, it isn't going to work all year long. It's only going to work after significant drainage from surface drain and that's not the objectives. It does not appear to be the solution.

Mr. Gwilliam: I know at least once and I think more than once it's been suggested that a well be put in. It would eliminate all the problems with one adequate well being put in. It would eliminate much of the problems of this sump and the mud and so forth and so on. Plus the hours that go into it. I'd like to, if the committee is suggesting that the proposed system is not working, I'd like to move that we take the recommendation and replace our agreement of September 11th with the establishment of a community water system in the form of a well that would be required to meet County standards and that it be hooked up to Mr. Camera and Mr. Reavis's previous water system and that they be granted an easement, if necessary, a maintenance easement.

Mr. Gerber: Is he going to be in Boundary Commission trouble if he had to do something like that?

Merz: No, you can have three homes. Is that a motion?

Gwilliam: That is a motion.

Merz: Do I hear a second. I need a second before you discuss.

Tout: I'd like to hear some discussion on it before we actually second it, from the people involved.

Merz: We have to have a second before it is legal to discuss. Then you can discuss all you want.

Tout: Alright, I'll second it.

Merz: The motion is, for an adequate well to supply two homes, to meet County standards and property easements, if necessary. Property Maintenance easements. Let's hear from Mr. Witt. Would you like to step forward so that we can hear you.

Witt: I would like to have Virgil Whitehall who is doing the excavation explain why he was having difficulty or either one of his.....(tape garbeled) but Virgil is out of town and won't be back until next week sometime.....(garbeled on tape) so he can't make it and my legal counsel couldn't make it because he works with the Boundary Commission and things with Lane County. But from what I have, Virgil asked if he could have an extension of time because he didn't cut into the main stream that was feeding into the system basin. And due to the drought there wasn't enoughto do this It was impossible to shut down, cutting them

completely out of water and using that water in filling that basin and flushing it out. So rather than cut them completely off of water, to do that, he went ahead and kind of toyed with it hoping that it would have enough rain or run off to fill that basin and flush it all out. That mud that's in there is where the excavation was done where the dam was built and it never had a chance to get out of that box since it's been in there. The little trickle of a stream that comes in there from the Sathes, it is my understanding that they have walked that stream completely up to it's beginning and during this drought the surface water has been slowly going into the streams bed until it's been reduced down very slowly and what he is getting out from under there is seepage driven out of the spring bed, through the culvert down in through there. It is going to take a matter of time. He did request some more time. We asked for a little more time at the last meeting and you folks kind of thought that 30 days would be ample time.

Merz: We will take this into consideration.

Mr. Camera: I just wanted to bring out a couple of points here. We have been fighting with him for a year.....I have talked with several people in the area and they feel that the best solution is a well. Mr. Reavis and myself have been cut off long enough. We've been inconvenienced long enough and then it comes up that Mr. Witt wants to buy more time. He's had a year or better to do something about it and I think it is time that something be done and done right away. I feel that if it isn't done then our next step is to.....a decimal to that point now. I'm tired of the dirty water, I'm tired of all the troubles that we've had. We've had it for a year. He's bought time and bought time and bought time. I think it's time that it comes to an end and something is done. Either he puts in a well or we go to court and do something about it. The time has come that we've got to do something.

Don Perkerson: My name is Don Perkerson and I'm a property owner close to the Reavis's. I've been coming down to the local area since about 1953. I've owned property here for the last 12 years. I have a little cabin not too far from there, right next to the Johnson's. The well that I have is not suitable and so the last 8-10 years, I've been using water from the Reavis place. I was well acquainted with the Zanes who owned the property bordering on Mr. Brown's property, since sold to Mr. Witt. During the course of time that I've come to this area and utilized the facilities, the water has been really very good. In the last year or so things have not been so good. My wife and I are here now trying to enjoy our cabin a little bit and we are using water that is not nearly the quality that it has been in the past. I took the liberty to drive up to the site where this sump is situated. By profession I'm a Federal Law Enforcement officer and I work for the Forest Service. One of the problems that we have had in the past is people utilizing roadways for emptying their affluent

and this place to me looked like a site for emptying affluent. I saw that it was going to be a utilized water system I felt that it was going to have to be a little better then taht. The other thing, the rain and runoff is not normally the water that they have had from my observation from having worked on the water system that the Toffel's have. I believe that same spring origin up there, the ground where the road is in now and where the water is running, it looked to me that there is a lot of leaching and stuff and I would question that any of you would feel very comfortable dipping into the water system for a drink. I would like to see whatever is fair and equitable done but as another person I would like to see something done to get a good supply of water.

Merz: Are you actually hooked up to the water system, or do you just carry water.

Perkerson: No I just carry water. I don't come down that often.

Brown: There is a motion on the floor, what is Mr. Witt's comment on the motion?

Merz: Mr. Witt would you care to comment on the motion that the Council has before them?

Witt: I wouldn't want to comment on that until I talk to my legal service.

Merz: Mr. Gerber do you care to add anything?

Gerber: No, I don't think so.

Tout: Mr. Gerber do you feel that this is a viable alternative?

Gerber: I'm thinking on that.

Fillman: We have a letter here from Mr. Brown stating that his deed stated that he was bound to furnish water rights to the Reavis property and that that was tranferred through the sale of the property.

Gwilliam: I'm not sure that this is pertinent.

Tout: That's not topical to this situation. It might be pertinent in a court of law in a civil suit but not in our particular situation at this point.

Gwilliam: We tried a number of things to bring this to a solution and it obviously hasn't workied. I'm not sure that we've got anybody.....by not going to that well as a solution in the very beginning.

Brown: That was discussed in the very beginning a number of times.

Gerber: In answer to Phil's question. I think in order for the City to approve this variance, the hangup in approving this variance is that damage has been done to adjoining property owners and by approving the variance would in affect making legal an action that does do damage to adjoining property owners. Basically to correct that problem, Mr. Witt is going to have to provide water of a similar or better quality of what they had before he put the road in and moved everything around. I don't think that it's our place to tell Mr. Witt how to do that. If Mr. Witt wants to ask us, "I'm willing to do this, such and so, is that going to be passed by the City?". At that point it is reasonable to expect a response from the City saying that we can live with that or we can't. I think it is reasonable for the City to put a time limit on it and we have a time limit that has expired. At this point the question is whether Mr. Witt has made good faith efforts or not. Basically if Mr. Witt is willing to put in a well and ge figures that will take care of it, yes, But I don't think that it is our job to go to Mr. Witt and say you should do this or you should do that. I think it's Mr. Witt's job to come to us and show why we shouldn't start or continue with abatement proceedings including the civil penalties that we can revoke.

Tout: I don't think that there is any abatement proceedings involved.

Gerber: Oh yes. He's here on abatement proceedings.

Gwilliam: He hasn't done anything that we've told him to do.

Tout: We haven't granted a variance.

Gwilliam: The road is there.

Tout: Until we grant the variance and the Major Partition, it is simply a driveway and he can put that there. It's his driveway which we have no control over.

Gerber: That's true but if he wants his Major Land Partition, to subdivide his lot, we have to take care of that problem.

Tout: It's a separate thing. It's another problem.

Gerber: How he does that is his business. Didn't we already approve the subdivision?

Brown: It is not a subdivision. He submitted an application for a Major Land Partition and a Variance. If he withdraws the Major Land Partition, then it is a driveway and it's no longer an issue. If he doesn't then it's still an issue and it's still before this Council. And in so doing this is where the damage to the Reavis and the Camera's comes in.

Gerber: If it's simply a driveway then the dispute is between the Camera's and Reavis and Witt. If it's not a driveway, in a Major Land Partition then we're involved.

Gwilliam: At this point he calls it a partition and he needs a varaince.

Gerber: That is correct.

Gwilliam: In order to grant that variance, we ended up acting as a mediator.

Tout: We really need to do something. We either need to grant the variance or deny the variance, or in some way resolve our end of the problem. Then at that point if we grant the variance we're involved and if we disallow the variance it becomes a civil issue between, Witt, Reavis and Camera.

Witt: Would it be possible to have action upon my request to have an extension. Possibly another 30 days.

Merz: We will consider that.

Witt: That is what I came here to ask for.

Merz: We have a motion on the floor. The motion is to request to have a well to supply water for two families, to meet County health standards and a property maintenance easement if it is necessary. Do you wish to discuss this motion any further?

Gerber: I think from a legal stand point, with all due respect councilmen, that is not a good thing to do at this point. I still hold that as far as liability goes the City's role in this should be that the only issue before us, as Phil brought up, is the variance and the partition. In order to grant that he's got to remedy the water situation and we could care less how he does this. Tonight I think the City's perfectly entitled to both proceed and resolve the variance and the Major Land Partition issue or they can grant his extension of time or whatever. You can certainly impose conditions on it but I think, on my suggestion, that we ought to simply say give them water and we really don't care how it's done. That way we aren't sucked into this thing any deeper than we already are. I think we're in it too far already.

Merz: Any further discussion on the motion? All those in favor of the motion say Aye. (no response) All those opposed.

Fillman, Gwilliam, Tout, Petersdorf, Brown. Mayor Merz abstained. (as recorded at the first meeting in 1979, Merz recently had litigation with Witt)

The motion dies.

Petersdorf: May I ask legal counsel a question. What happens now

if we go ahead and make a motion to resolve, I mean to not give them the variance or the Major Partion.

Gerber: There would be a vote and if the vote passed, the request would be denied.

Peterdorf: Where does the City stand. Can they come back on us?

Gerber: There is always the possibility of a law suit and I think that I've indicated all along, that the ordinances aren't real clear on what exactly we're supposed to do in this situation and as near as I can figure out we would be under the legal defensil position to deny the variance due to the problem that has been created as a result of Mr. Witt's activity.

Tout: Second question then. If we grant another 30 days, we haven't involved ourselves any further in the legal question of whose at fault, have we?

Gerber: No.

Mr. Tout: I make the motion to grant another 30 days.

Merz: Mr. Tout has made a motion. Do I hear a second?

Petersdorf: I second.

Tout: Before we vote on this I would like to point out something. If there's a legal civil suit involved and we deny the petition, the civil suit is between Reavis, Camera and Witt. If we grant a 30 day extention to this and they can't stand it any longer, it's still a civil suit between Reavis, Camera and Witt, correct?

Gerber: That's up to the lawyers handling the case. Certainly it's conceivable that the City can be names as a defendant regardless of what we vote. I really don't think there is a situation or a way we can handle this thing that we don't face some exposure in litigation. I don't mean they 're going to win, but I think that if there are lawsuits filed.....

Gwilliam: Phil with your motion, how is it going to be determined that he hasn't done anything but turn muddy water down to their houses when he's through.

Tout: I think as Mr. Gerber pointed out, that's his problem. It has to be good enough so that Mr. Camera and Mr. Reavis aren't going to sue him over. Otherwise it isn't resolved.

Gerber: Let the factual resolution the City Council has made. Is the water system providing water at least of similar quality. And if you decide no, then I think that we have to deny petition for the variance and the parition. Then I think you have to prove

it.

Brown: How many times can this thing be extended and rereviewed and reanalyzed?

Gerber: As long as the City Council is willing to extend it.

Gwilliam: Could Phil add in his motion that the City be answered to see if Mr. Camera and Mr. Reavis are satisfied with the system in 30 days.

Gerber: I don't think we should leave that in their hands.

Tout: I don't think we can do that. They might not even be willing to tell us. I think Mr. Reavis would like to say something.

Gwilliam: We've got to make our own decision. Then we could go on and if the work isn't done, upon our inspection, 30 days from now, his variance is denied.

Petersdorf: I'm not sure I'm going to second that motion, Phil. I'm sorry.

Merz: Wait just a minute because he's bringing up another point. That it would be automatically denied, the variance, in 30 days.

Petersdorf: How can he do that?

Merz: Do you want that as part of the motion?

Gwilliam: I'm asking Phil if he will make this part of his motion.

Merz: Because in a sense, that's what you are doing. You are allowing the variance with the condition and the condition has not yet been met. So now you're offering to extend it 30 days.

Petersdorf: We're not offering. It's just a motion.

Gwilliam: That's right, but if whatever Phil has in his motion isn't satisfactorily met in 30 days, the variance will be denied.

Brown: What are our alternatives. Our Alternatives are to act on the applications that are before us. That's the alternatives.

Gwilliam: Right now.

Brown: We're to act on what we've already got that doesn't already exist.

Gwilliam: Based on your findings.

Tout: I think we would be hard pressed on it when he has acted in good faith. Maybe at some point there is some questions

about this. At this point he's acted in good faith since the last meeting that we had. He took adequate action and made some efforts at faith.

Gwilliam: This part we can't deny.

Tout: And if we do admit that he's made these efforts in good faith then I think that we are obligated to give him enough time to complete it.

Merz: Mr. Reavis did you have a question?

Reavis: If you would check your records, he's been doing this in good faith since last November. Under the circumstance you say that you're not involved with it. I say you're very well involved. You look at each one of your meetings and you give him so many days and you give him so many days, and now you're giving him another 30 days. Hell, I can find water in any mud puddle in 30 days. There's going to be water and under the circumstances, the way they've torn that road up, that's a dump for everything coming off of that road. There's no way that I can see, with the sump in the bottom, how are you going to clean that out. With a backhoe? To clean that out. And another thing for anyone that has children in the neighborhood, I expect to see anytime to see an arm sticking out when that thing fills up. That to me, I tell you, I think we're fighting already. Like Mr. Brown was saying, I think the issue is and how many times, look through your records, have you given him 30 days, 30 days, and 30 days? How long can this go on. And as far as, did you check, (directed to Merz)?

Merz: No the committee members, Mr. Fillman, Mr. Tout, and Mr. Brown.

Reavis: Well merciful heavens, if anybody checked that, Mr. Brown, would you like to drink out of that?

Brown: No.

Reavis: Tout?

Tout: No.

Merz: They all agreed that.

Reavis: Well the next 30 days, what good is it going to do working with that for 30 days. Tell me that.

Merz: Alright, you're protesting the extension.

Reavis: Absolutely.

Tout: Mr. Reavis before you sit down, I'd like to point out

that the question that we have to, is really one of two things. Do we grant the petition for the variance or do we deny the petition for the variance. From your standpoint, what would you prefer?

Reavis: At this point I would imagine of course I want water.

Tout: This isn't part of the question. My question to you, would you prefer that we deny the variance or grant the variance and the Major Partition.

Reavis: Under the circumstances, the way it's going now, I would rather you just deny it and get it over with so we can start fighting it ourselves. This is the only thing I can think of.

Tout: To me that's the only thing that's left. If we can't help you resolve it, then if we deny it, we'll no longer have anything to do with whether you get water or not. It would be strictly your problem.

Reavis: I understand that and as it is now, we're getting no place. The City Council getting no place. I'm getting mad and I bet damn well you guys are getting mad and everybody else is. You haven't been drinking water and packing water in and the wife she gets up at four o'clock in the morning so she can get things done to get over to wash for a whole year. I'm just tired of it. I'm absolutely tired of it. The whole thing has been just assinine. If you'll excuse the expression. I've asked a number of people and you have a number of letters. Everybody has reviewed it. Now since they've torn that road up there is no way that I can see, with that road there how they can clean that up and get water. That's going to be a mud hole from now on as far as I can see.

Fillman: Can I make a statement here. At our last meeting, if you'll check the records, you said that you wanted it put back in the same condition.

Reavis: No I did not. If I wanted it back in the same place, it would have to go under the road.

Fillman: Yes you did. You said the same condition. That's what he's been attempting to do.

Reavis: No he absolutely has not. How can he put it back in the same condition when the road wasn't there in the first place. Tell me that. Number two, it's underneath the road. You'd have to dig underneath the road, which he practically did.

Fillman: They told me that the spring came out of the base of the Cypris. I've got a letter right here that states that.

Reavis: Out of the Cypris?

Fillman: Out of the stump there.

Reavis: Yes, there use to be a Spruce tree. But I never did say to put it back in there. If I wanted it back in there, I would have had it back in there. I don't want anything coming from that road.

Merz: Ok let's not get into any personal arguments here. There is a motion on the floor.

Brown: Mr. Witt you've indicated before that you need this extention primarily because the South..... didn't fill out and purge out the mud etc. Could you have put a tanker truck down in there and put water in to purge that system.

Witt: I was going to suggest it to Virgil Whitehall and he left and he left it up to this young fellow that's working for him.

Brown: So it's a possiblity that could have done what you are waiting for the water to do then.

Witt: I hope all of you will take into consideration all of the logging and everything that has been done to the West of there which has diminished that stream considerably.

Merz: Yes we have the testimony on that. Any further discussion on the motion.

Tout: We don't have a motion because Bob withdrew his second. We are now without a motion looking for a solution.

Gwilliam: Mr. Witt do you feel you need the 30 days to prove whether or not the system works?

Witt: I'm asking for the 30 days extention at the request of Virgil Whitehall. I asked for an extention and it was granted but that was for the 10 days from the 9th to tonight. Which was the 10 days that was given. Am I right on that Mr. Gerber?

Gerber: Yes.

Witt: He would like to have more time when he gets back to see if it works.

Merz: Mrs. Reavis.

Mrs. Reavis: I'm just kind of curious during this extention time that he is asking for, the ten days, what does he intend to do. That hole is going to stay the same. We're always going to have run off from the road. We're going to have anything washing in tp it. We have pictures. There's a bulk head there that's

holding his road in place, but when the rain , that's going to seep under there. All that water from the road is going to seep into it. What is he going to do in this 10 days with that hole. What can you do with something like that.

Merz: Council would you like this answered by Mr. Witt?

Gwilliam: Is the same or better too broad?

Gerber: No, I don't think that is.

Tout: How do you define what's the same or better?

Gerber: Factual matter that is being prepared by the City Council. You'll look at the evidence and decide if it is the same or better.

Tout: But we have nothing to look at what they use to have.

Gerber: You have the testimony that you have before you. It's the same thing a jury would have if this were a lawsuit.

Tout: I'm not a judge.

Perkerson: May I ask a question? Before, back several years not too long ago, that was a nice wooded hillside back there and was a good water shad. It was very pretty. I'm not real sure that the time that the logging occurred on that, it was started without the benefit of an Operations Plan. Which is contrary to State Statute. Something like the fruit of the poisonous tree, something that started illegally it stays illegal and it can't be introduced into court. Is that right counselor? As evidence something that is illegal in the beginning.

Merz: Are you saying that it was logged illegally?

Perkerson: No, I'm saying at the time that the logging was started that there was not an Operations Plan.

Merz: What do you mean an Operations Plan?

Perkerson: The State requires an Operations Plan.

Merz: For loggers?

Perkerson: Right.

Merz: There were State issued logging permits for all of the logging.

Perkerson : Prior to the time of falling?

Merz: Yes.

Perkerson: That may very well be, but the condition of the land and the condition of the springs apparently at this time wasn't taken into condition although it was a preexisting condition of the land sale and so forth. So it would appear that the obligation would remain the same. Regardless of what the ground cover was. This should be taken into consideration as much as this is a part of the Dunes property also.

Merz: I did not quite follow all of that.

Witt: Mayor Merz, I think that.....of Mr. Perkerson's testimony here. I don't think that it has any.....

Merz: Ok , Council will take this into consideration. Mr. Perkerson would you like to sign in with your name and address.

Brown: Can I ask Mr. Gerber a question? Refresh for me, where we stand. Are we looking at a denial on the Major Land Partition in itself as a possibility, are we looking at the denial of the variance only, or both?

Gerber: I don't think we can approve on without the other.

Brown: I thought we already did. I thought we already approved one and then went on to the other on conditioned upon doing it also. I believe so. Can we check the record on this.

Gerber: I think you're right, but I can't remember.

Brown: I'd like to know just to clear the air and see where we really are.

Merz: Give the secretary a minute.

Gwilliam: If we're only involved in the variance and we deny the variance then the land partition would automatically be denied also.

Brown: There is a condition there and I can't remember the words exactly, but we need to check.

Merz: It would be last June or July.

Brown: One had a bearing on the other.

Merz: While we're having a record search on that I would like to personally thank the committee that served on this. Mr. Brown, Mr. Tout and Mr. Fillman. They have done extra time and work and thought and time to talk and resolve this problem.

Gwilliam: We asked for a show cause, from my notes, in August.

Brown: So we asked for a show cause in August, then it was before

August. It must of been in July, June or May.

Gerber: The Major Land Partition was granted. Mr. Witt is in front of the Council right now to show cause why that Partition should not be revoked and the variance not be denied.

Brown: Can we check the record on, when was that.

Gerber: I don't know when the thing was approved. I just found a letter here saying that that is what we are doing so I presume that somewhere back here, I haven't got that far yet.

Tout: I think that when it was granted that there were conditions that went with it.

Brown: I think it was. If we could, I would like to fine out what those conditions were, that was approved and then subject to the variance and them to know how many times this has come before us. Mayor Merz is that alright?

Merz; Yes that is what we want.

Gerber: The Major Partiton was granted on March 19, 1980, according to the letter here.

Gwilliam: There was action in January, regarding that original catch basin. At that time both Mr. Reavis , Mr. Witt and Mr. Camera agreed to it but I think that we were still in that same position, that he would put it back in as good or better condition. Then he appeared in July for the show cause why we should continue.

Merz: Ok, one of the conditions we know was to request the water as good or better.

Gwilliam: the Major Partition was in December, perhaps, Ron take a look.

Tout: It was before March 13 wasn't it?

Brown: It probably came in before that, but didn't get granted.

Merz: We may have had a limit on it.

Brown: That's why I think we need to review that and see just what we had then and clear the air on this because there is so much time that's alapsed.

Merz: Mr. Gerber has the answer on the Witt procedure.

Gerber: Mr. Tout made the motion that if they grant the Major Partition subject to the variance being closed completed. Adopt,

ing the Findings of Fact and Conclusions of Law recommended by the Planning Commission, Mr. Gwilliam seconded and the motion carried. Now the variance was, Mr. Tout made the motion to cancel the grounds of the variance subject to Mr. Witt getting a written signed agreement for easement for Mr. Reavis and Mr. Camera from Mr. Toffel to have their water system on his property which we included the right to move the basin an extra 10 feet up stream. Mr. Gwilliam seconded and the motion carried unanimously. Now in my recollection of all that is, this was all part of an agreement that was entered into and for some reason Mr. Witt didn't perform.

Tout: Mr. Toffel refused.

Gerber: Then we ended up on the next go around and we had another agreement worked out where Mr. Witt was going to put in this new system. So anyhow the variance was, we in esence told Mr. Witt we would approve his variance once he got the work done on the Toffel property, which turned out to be impossible. So now we still have the variance before us, the Major Land Partition has been approved subject to completion of the variance proceedings. That's a condition on the Major Land Partiton.

Merz: Mr. Gwilliam?

Gwilliam: I move that the request for a variance be denied.

Brown: Second.

Merz: The motion was made and seconded to deny the variance. Any further discussion?

Merz: All those in favor say Aye.

Gwilliam, Fillman, Petersdorf, Brown

Merz: Opposed

Tout

Merz: Let the record show that Merz did not vote.

Gerber: Do we have a quorum of four votes in favor?

Merz: One, two, three , four, and Mr. Tout, No. You have to record the no votes and who they were. The variance is denied which also denies the Major Land Partition. Everyone who has testified in the last year on this will have to be notified.

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AGENDA
REGULAR MEETING
OF
DUNES CITY COUNCIL
November 13, 1980

- I. CALL TO ORDER AND ROLL CALL
- II. SWEARING IN OF CITY COUNCIL MEMBER
- III. ANNOUNCEMENTS
 - A. COUNCILMAN DON BROWN'S RESIGNATION
- IV. CITIZEN INPUT ON UNSCHEDULED ITEMS
- V. REPORTS
 - A. ELECTION RETURNS
- VI. PUBLIC HEARINGS
 - NO PUBLIC HEARINGS SCHEDULED
- VII. APPROVAL OF MINUTES OF OCTOBER 16, 1980
- VIII. BILLS AGAINST THE CITY
- IX. RECEIPTS OF SESSION
- X. CORRESPONDENCE
- XI. OLD BUSINESS
 - A. MIKE JOHNSON SIUSLAW SANITARY SERVICE FRANCHISE
 - B. COMMUNITY CENTER MISSION CHURCH REQUEST
 - C. LEMKE REPORT
- XII. NEW BUSINESS
 - A. DISCUSSION OF COMMUNITY HALL JANITORIAL SERVICE
 - B. SECRETARY PAY SCALE
- XIII. ADJOURNMENT

Oregon

DUNES CITY, OREGON

MINUTES OF THE DUNES CITY COUNCIL

REGULAR MEETING

NOVEMBER 13, 1980

I. CALL TO ORDER AND ROLL CALL

At the regular meeting of the Dunes City Council held on the 13th day of November, 1980, Mayor Merz called the meeting to order at 7:35 P.M.

Roll Call

Present: Mayor Merz, P. Tout, E. Fillman, B. Petersdorf
Attorney Gerber, City Recorder B. Stocking,
Secretary D. Stinger, *J. Baumeister*

Absent: J. Gwilliam (excused)

II. SWEARING IN OF CITY COUNCIL MEMBER

Mr. James Baumeister, 83464 Woodland Lane, Florence, Oregon was sworn in to the Dunes City Council by City Recorder Betty Stocking. Mr. Baumeister is filling the vacancy that was left when Gwen Slocum gave her resignation to the Dunes City Council in September.

III. ANNOUNCEMENTS

Council Member Don Brown submitted his resignation from the City Council. His reasons were that in the past few years he has been very involved in the Siuslaw Rural Fire Department and has found that he is in short supply of time to devote to the City Government any longer.

Mayor Merz expressed her regret in acception Mr. Brown's resignation. She did comment that the rural fire department in Dunes City is in need of volunteer's badly. she suggested that the City sponsor an ad in the local newspaper expressing the need for volunteer's in the Dunes City area. Mr. Tout made the motion that the City sponsor such an ad and Mr. Petersdorf seconded and the motion carried.

IV. CITIZENS INPUT

Mr. Frank Elliott, Eugene, Oregon spoke to the Council on EPW2. He stated that the project is in a holding pattern as of now because of the slow down in the economy and with money being in such short supply. He anticipates that they will get going quickly. One member of the Council asked Mr. Elliott if he would like to comment on the erosion problem in the project area. Mr. Elliott stated that they have had a great problem with "four wheelers"

tearing up the terrain and that they do plan to do some cross grading and planting, but first they will have to solve the problem of the "four wheelers". He said that also they will have to get the street in before the planting can be done and this won't be done until they do start working fully on the project. again.

Mr. Gerber asked Mr. Elliott if they had decided what they were going to do about the decision of the Boundary Commission, on the water system. Mr. Elliott stated that they had not entirely decided.

Also Mr. Gerber stated that the design team for EPW2 is not complete. They are lacking an engineer. Mr. Elliott stated that they have pretty much decided who they would have as their new engineer but that they would not designate an engineer until they were ready to go on the project again.

V. ELECTION RETURNS

Mrs. Stocking gave the elction returns to the Council.

Petersdorf for Mayor -----464
Mealy for Council-----378
Passenger for Council-----431
Fillman for Council-----378
Dunes City Charter-----Yes--405 No--103

There were a total of 571 voters from Dunes City that came to the polls.

VI. PUBLIC HEARINGS - NONE

VII. APPROVAL OF MINUTES OF OCTOBER 16, 1980

Mayor Merz directed a question to Attorney Gerber regarding the City Council minutes. She asked when the Council asks to have a letter read into the record for the minutes do we attach a copy of that letter to the minutes. Mr. Gerber stated that it can be done either way. It can be printed into the minutes or the letter can be attached to the minutes to refer to.

Mr. Fillman made the motion to approve the minutes of October 16th, 1980. Mr. Petersdorf seconded and the motion carried.

VIII. BILLS AGAINST THE CITY

Bills against the City were \$1,238.28 and \$120.05 in Bills paid and not reviewed by the Council. Mr. Petersdorf made the motion to pay the bills and Mr. Fillman seconded and the motion carried.

IX. RECEIPTS OF SESSION - \$2,561.85

Mayor Merz stated that \$1,300.00 of this will go back into the

Street Fund.

X. CORRESPONDENCE

The City received a letter from the Orecals organization concerning the fee for the use of the Building. the letter was from Terry Hughes, Chairman of the Orecals. Their concern was that they have used the building for a monthly potluck for a long time now and that they have always paid \$10 each time they used it. They used the park for the summer and when they came back to Dunes City Community Center for the winter, they found that the fee had gone up to \$25. They felt that the City Council should reconsider this increase. They are a non-profit organization made up primarily of Dunes City residents. They also expressed their willingness to help in "sprucing up" the appearance of the Center as a volunteer project.

The Council discussed at length the issue. The number of groups that are non-profit that use the building per year was discussed. Also whether non-profit groups should have to pay at all. It was also found that this particular group always leaves the building very clean.

Mr. Tout made the motion that any social group primarily of Dunes City residents should be able to use the building free of charge.

Mr. Fillman seconded.

The Council had some discussion on the motion. Mrs. Stocking brought up the fact that the budget has a \$200 anticipate revenue from the building rental and if the Council takes away any fee that is going to be paid, then this will be greatly affected.

The Council discussed the fact that it does cost the City each time that the building is being used and that there should be some sort of fee for the use of the building to pay the expenses such as heating and electricity.

Mr. Tout amended his motion to state that any social group, non-profit, should be able to use the building at a \$10 fee to cover the expenses in using the building, and that the \$25 cleaning deposit will remain as it is now. It is refundable if the building is left clean.

Mr. Fillman seconded and this motion carried.

Let the record show that Mrs. Hughes(Terry) did appear at the meeting representing the Orecals, at a later point of the Council Meeting.

XI. OLD BUSINESS

A. Mike Johnson Siuslaw Sanitary Service Franchise

Mayor Merz updated the Council on this issue. Dunes City has a ten year franchise with Mike Johnson and the Siuslaw Sanitary Service for gargage disposal in Dunes City. The Franchise is to be reviewed every year. Mr. Johnson is now paying \$150 per year to the City for this Franchise and he takes care of the City's garbage free.

Mayor Merz stated that in the past year Mr. Johnson has been before the Council two times asking for an increase in his garbage rates. The first time it was because of the price of gas going up so drastically and the second time was because of the Lane County dump fee being installed. Both times Mr. Johnson was granted his increase.

This year the Budget Committee decided to raise Mr. Johnson's franchise fee to \$500 or to give a special rate for Senior Citizens.

Mike Johnson, Florence , Oregon spoke to the Council. He clarified that the franchise is to be reviewed every other year and not every year. He also stated that the last time that he appeared before the Dunes City Council he gave some facts and figures on his garbage route. These figures showing that he is losing about \$200 per month in Dunes City. He requested that the Council appoint a committe to come to his office and review his books to see where his costs are. This was granted at that meeting, but it was never followed through. The City refused to do this.

Mayor Merz stated that the Committee agreed that looking at his books would get them no where because none of them are auditors and would not know what they were to look for.

Mr. Johnson felt that all it would take is a look at his expenses and a days ride in his truck to see that he is losing money and that a \$500 franchise fee to Dunes City would have to come out of his pocket.

Mayor Merz stated that Mr. Johnson has been paying the \$150 franchise fee for 6 years and before that he was paying 2.35% of gross from the City, to the City.

Mr. Johnson stated that he would be delighted with 3% to the City.

Mr. Johnson stated that Dunes City was not giving correct figures.

Mayor Merz stated that the figures that they have are the ones that he gave them the last time he appeared before the Council. If he had other figures, she suggested that he show them to the Council. Mr. Johnson stated that he would not do such a thing in a public meeting. He felt that it was not public business.

Mr. Gerber stated that these kinds of decisions have to be made in an open meeting. He realized that he and Attorney Clark disagree on this, but that he has written a letter to the League of Oregon Cities asking them what is actually correct.

He went on to say that he does not think that this can be negotiated behind closed doors.

Mr. Johnson stated that he was not prepared to discuss this issue any further that he would only do it in private and not in a Public Meeting. He also stated that Mr. Gerber had used information against him in a Public Meeting in Florence.

Mr. Gerber stated that this was not true, that he only suggested to the City of Florence that they not get into a ten year franchise.

The Council got back to the subject of the franchise fee or the reduced rate for Senior Citizens. Mr. Johnson stated that he gives different pickup times that would suffice Senior Citizens well. If they would rather go to an every other week pick up, the rate is quite alot less or even a monthly pick up. He said that the Siuslaw Sanitary Service will not complain if a Senior Citizen compacts a little extra garbage into one can so that they can get by with less pick ups. However, they do complain if this is done in a large family with alot of garbage.

Mayor Merz stated that she didn't feel that the Citizens of Dunes City were getting a fair "shake". There is another garbage disposal in the area and when she gets calls from Dunes City Citizens asking why they can't have this disposal pick up their garbage, because the rates are advertised as less than Siuslaw Sanitary Service, she has to tell them that they can't because Siuslaw Sanitary Service has the franchise with Dunes City. Mayor Merz stated that 6 years ago Mr. Johnson was paying \$150 franchise to Dunes City and this is what he is still paying and she felt that he must be taking in more from Dunes City now than he was 6 years ago. She felt that he is entitled to pay a larger franchise fee to Dunes City. In this way, giving something more to the citizens.

Mr. Johnson questioned her phrase of a "fair shake". He felt that his service was good in Dunes City. Mayor Merz stated that the service is great, but she meant that the citizens have to have Siuslaw pick up their garbage because of the franchise, so they should get a little more for the franchise.

Mr. Tout stated that Mr. Johnson stated that he would be delighted with 3%. 3% would be more than \$150 and less than \$500. This looks to be the solution to this problem. Mr. Tout made this a motion and it died for lack of a second.

The matter of Lane County lowering the dump fees was brought up. It was found that Lane County did lower the individual dump fees but not for commercial. Mr. Johnson stated that he still is paying the full amount to dump his truck.

After some more discussion on Dunes City Citizens and the garbage disposal in Dunes City, Mayor Merz asked the Council if they would consider a \$300 a year franchise fee.

Mr. Fillman made the motion to have Siuslaw Sanitary Service pay to Dunes City a \$300 per year franchise fee and that the City would pay for their own garbage disposal.

Mr. Baumeister seconded.

Ayes: Baumeister, Fillman, Merz
Noes: Tout, Petersdorf

The motion carried.

Mr. Gerber asked that the Council take the agenda out of order because he would have to leave in a few minutes and the Lemke report may need his attention.

C. Lemke Report

Mayor Merz stated to the Council that at the last meeting they discussed the Don Lemke Little Woahink Subdivision. The Council did vote to go ahead and issue Building Permits on that subdivision, that it was apparently underway to complete the underground utilities. At this point, the underground utility ditches are there. The wires for the telephone, Cable TV and PUD are in the ditches.

Mr. Dan Scarberry, 5166 Tsiltcoos Drive , Florence, Oregon, representing Coast Real Estate, stated that the telephone lines are not in yet, but that this is all under progress.

Mayor Merz went on to say that there was a water probelm. Mr. Lemke had agreed that he was to put in the water with the underground utilities. At the time that the subdivision was passed, he thought that he was going to dig wells or he thought he was going to get in a public water system and later found out that he couldn't do that. At this point, he plans to put in pipes running from Little Woahink Lake to each lot. These pipes are to be color key coded, so that each property owner puts his own submersable pump into the lake. We have talked to the State Water Resource Department and they say that this won't go.

Mr. Gerber asked Mayor Merz when she talked to them because he had talked to them the other day and they said this probably would go.

Mr. Scarberry stated that he talked to them today. He said that he talked to Mr. Wayne Overcash, from the Water Resource Board in Salem. He said that he has been in contact with him since the middle of October and he said that he has a copy of all of the reports and would be happy to leave them with the Council. To give a brief history, we're in the process of planning to help Mr. Archer get things going on his lot. In this we had to obtain water rights and so we contacted the State Water Resource Board. Mr. Scarberry

went on to explain to the Council all of the steps that they had to take according to Mr. Overcash. They now find that they do need another map of the entire subdivision and he has to identify the streams that feed into Little Woahink and show the flow of that stream. Mr. Overcash did indicate that after this was done that he anticipated no problems with the water rights.

Mr. Tout asked Mr. Scarberry if what he is doing is getting water rights for one specific lot. Lot #6 which was sold to Mr. Archer.

Mr. Scarberry stated that this was right. Mr. Tout said that this meant that each individual lot owner would have to go through this. Mr. Scarberry stated that Mr. Overcash indicated to him that each property owner may not be able to do this.

Mayor Merz stated that one Building Permit for lot #6 was issued this week. Since that time the City has been contacted by the Real Estate Commissioner, please do not issue any more Building Permits on that subdivision.

Mr. Scarberry wished to comment on that. He said that they are finding, as the City has found, that Don Lemke is a gentlemen that you have to keep tabs on very closely. We are trying our best to assure the Real Estate Commissioner that these matters will be taken care of. He stated that there are a couple of things that have to be cleared up but they are being worked on.

The Council had some discussion on the Water Rights and it was said that Water Rights can be given out anywhere. It was also discussed that if any of the water systems failed, that Dunes City has gone on record as not being liable for them. The citizens have made that clear. They do not want to be in the water business.

The subject of Mr. Lemke's road widths came up also. It seems that through the years from 1968 that the road widths vary in the covenants. Mayor Merz stated that Pete Jensen from Ray Welss called and said that they were ready to pave a portion of the subdivision but it wasn't clear how wide the roads were to be.

Mr. Gerber stated that since this area is still undeveloped, they will have to go with the Subdivision Ordinance and this states that the roads will be 24' wide.

D.Witt Report

Mr. Tout questioned the first Conclusion of Law on the Witt Report that Mr. Gerber gave the Council. It stated that "The Reavis and Camera households had an easement established by prescription to maintain the piping, catch basin, and dam upon the Witt property."

Mr. Gerber stated that if you recall that there was testimony that that system had been in place for over ten years. It was challenged but no one came up with anything. This is where we started from,

that the Reavis and Camera's had the right to have the equipment on the Witt property.

Mr. Gerber was excused from the meeting at 9:04 P.M.

B. Community Center Mission Church Request

Mr. Robert Groezinger, 4859 Darling Loop, Florence, Oregon spoke for the Church request. He stated that he use to be the pastor of the First Baptist Church in Florence and he has recently resigned. He feels that there is a need for a church in Dunes City and he would like to help that need. They would like to meet on Sundays at the Community Center. This would be on Sunday mornings and evenings. They would like to have a piano but that they foresee no noise problem with this.

Mr. Petersdorf made the motion that Mr. Groezinger be able to use the Community Center to hold his Sunday services, free of charge. Mr. Fillman seconded.

Mr. Tout brought up the fact that the building still has expenses and he felt that the \$10 fee should be installed as it was for the Oreca's previously.

Mr. Petersdorf amended his motion to state that the Church will have to pay the \$10 fee per Sunday. The \$25 cleaning deposit will still be required and will be refundable if the building is left clean after every use.

The motion carried.

Mr. Groezinger made the statement that there had been some discussion on the idea of this being a mission church. This will not be a mission church as far as taking in people from the street. He has other channels that can take care of this.

He also added that he would like the Council's opinion on a portable sign. He would put it out at the intersection of Pacific Avenue and Spruce Street on Sunday morning and take it away after the services. The Council had no objection to this as long as it was taken down each Sunday.

XII. NEW BUSINESS

A. Janitorial Service for Community Center

Mayor Merz stated that the City has gotten a letter from the West Lane Sportsman Club stating that they would like to do some janitorial work for the Community Center. Up until now, the City has not had a job description for this job. At the time that a janitor was hired, it was explained what the duties would be but there was no formal description. The Council has before them a description with some suggested duties of the Janitor.

The Council had some discussion on the job description and then Mr. Petersdorf made the motion to accept the job description. Mr. Fillman seconded and the motion carried.

B. Secretary Pay Scale

The increasing of the Dunes City Secretary's pay from \$3.50 per hour to \$4.00 per hour was discussed by the Council. Mr. Petersdorf made the motion that the request for the increase be granted. Mr. Fillman seconded and the motion carried.

XIII. OTHER BUSINESS

Dog Licenses

Mayor Merz stated that for some time now Lane County has been collecting the fees for Dunes City Residents Dog Licenses. Thanks to Mrs. Staub who issues the licenses, Dunes City has been receiving the funds for these tags. Mrs. Staub has suggested that Dunes City sell their own licenses and this way the City would keep the revenue. This can be done whether we have dog controll or not.

Mayor Merz talked to Tri-Agency and they said that they can sell us a block of Dog Licenses for about \$25.00. This is for about 300. they will be sending the City a contract to look over if we decided to contract with Tri-Agency for Dog Control. It was said by Tri-Agency that they would have to come get a dog if it was a threat to the City, now.

Mayor Merz and the Council discussed this and it was decided that it looked like the City would go ahead and do this, however there would have to be a little more research done, but to tell the County to save the City a block of licenses.

XIV. ADJOURNMENT - 9:50 P.M.

Shirley M. Merz
MAYOR

Debra Kay Stinger
SECRETARY

James Fillman

Robert Fillman

James E. Baunister

Phil Cant

Robert Peterson

orig.

DUNES CITY COUNCIL

DUNES CITY OREGON

AGENDA

DECEMBER 11, 1980

- I. CALL TO ORDER AND ROLL CALL
- II. ANNOUNCEMENTS
- III. CITIZEN INPUT ON UNSCHEDULED ITEMS
- IV. REPORTS
 - A. ROAD COMMITTEE
- V. PUBLIC HEARINGS
 - A. RICHARD HOAK - VARIANCE
- VI. APPROVAL OF MINUTES OF NOVEMBER 13, 1980
- VII. BILLS AGAINST THE CITY
- VIII. RECEIPTS OF SESSION
- IX. CORRESPONDENCE
- X. OLD BUSINESS
 - A. VOLUNTEER FIRE DEPT. AD
 - B. SPORTSMAN CLUB USE OF COMMUNITY CENTER
 - C. DOG CONTROL
- XI. NEW BUSINESS
 - A. BOB PETERSDORF COUNCIL VACANCY - CONSIDER APPOINTMENT OF JAMES BAUMEISTER
 - B. WESTERN LANE TRANSPORTATION COMMITTEE FOR LCOG
NEED 1 COUNCIL MEMBER and 1 CITIZEN AT LARGE TO
BE APPOINTED
- XII. ADJOURNMENT

orig.

DUNES CITY, OREGON
MINUTES OF THE DUNES CITY COUNCIL
REGULAR MEETING
DECEMBER 11, 1980

I. CALL TO ORDER AND ROLL CALL

The regular meeting of the Dunes City Council was called to order by Mayor Merz at 7:30 P.M. on the 11th day of December 1980.

ROLL CALL

Present: Mayor Merz, B. Petersdorf, J. Gwilliam, P. Tout, E. Fillman, J. Baumeister, Attorney Gerber, City Recorder B. Stocking, Secretary D. Stinger

There were 6 citizens present.

II. ANNOUNCEMENTS

1. Mayor Merz announced to the Council that there were two students from the High School that worked on the City's maps. They arranged the maps and labeled them and also made a file index to find them. There are a lot of extra maps in the office and Mayor Merz stated that she would like the City to consider selling them to the public to get rid of them.
2. Mayor Merz stated that there will be an Ethics Seminar in Eugene on the 17th of January and she urges all members of the Council to attend. The City will reimburse the registration fee and give you mileage.

III. CITIZENS INPUT ON UNSCHEDULED ITEMS - None

IV. REPORTS

City Recorder Betty Stocking read into the record the report from Road Committee Chairman Ira Mann on the things that were done to the roads in the last month.

V. PUBLIC HEARING

RICHARD R. HOAK - VARIANCE - 5580 SHADY LANE, FLORENCE, OREGON
19-12-14-4-4 TL # 400 (located in Dunes City)

Mr. Baumeister stated that he had prior knowledge of this matter because he attended the Planning Commission meeting on November 19, 1980 when the Public Hearing for Mr. Hoak took place. He stated that he had no conflict.

The Secretary to the Planning Commission read into the record the

Findings of Fact and Conclusions of Law found by the Planning Commission at their November 19, 1980 meeting.

The Commission discussed the matter and the only question that did arise was the fact that the garage would be only 1' from the property line on one side. Since there is a fence on the property line, this would not give much room for a person to fit through such as a fireman in case of fire.

Mr. Edgar Hoak, 87806 Terrace View Drive, Florence, Oregon, Mr. Hoak's father was present to testify and answer any questions. He stated that they could cut down the size of the garage if necessary.

The Council had some more discussion on this matter.

The Public Hearing was closed at 7:50.

ACTION Mr. Tout made the motion that the City accept the recommendation of the Planning Commission adopting their Findings of Fact and Conclusions of Law and to grant the variance to Mr. Richard R. Hoaks, 5580 Shady Lane, 19-12-14-4-4 TL #400, to have a garage 1' from the property line.

Mr. Petersdorf seconded.

AYES: MERZ, PETERSDORF, GWILLIAM, TOUT, BAUMEISTER
NOES: FILLMAN

The motion carried.

VI. APPROVAL OF MINUTES OF NOVEMBER 13, 1980

Mr. Petersdorf made the motion that the minutes be approved with any corrections. Mr. Tout seconded. There were no corrections and the motion carried.

VII. RECEIPTS OF SESSION - \$2439.84- \$1451.70 to street fund from State Gas Tax.

VIII. BILLS AGAINST THE CITY

The Bills against the City totaled \$2,014.76. Mr. Petersdorf made the motion to pay the bills. Mr. Gwilliam seconded and the motion carried.

IX. CORRESPONDENCE - Reappoint T. Hunt to Planning Commission - Mr. Fillman made the motion to reappoint T. Hunt for another term. Gwilliam seconded and the motion carried.

X. OLD BUSINESS

1. Mayor Merz brought to the Council's attention that the City did sponsor an ad for the Rural Fire Department to help recruit members.

Mayor Merz also brought up the fact that since Councilman Don Brown is no longer on the Council, the Council no longer has a direct line with the rural fire department to know what is going on with the department.

Mr. Petersdorf stated that he had that on his list of things to take care of when he takes office in January. He will appoint someone to give a report to the Council on the happenings in the Fire Department.

2. SPORTSMAN CLUB USE OF COMMUNITY CENTER

Mr. Bill Riesenhuber was present to represent the Sportsman Club. They had shown some interest in doing the Janitorial work for Dunes City. The cleaning of the Community Center. Mr. Riesenhuber stated that since that concern was expressed he was unable to find anyone that would do it for the amount of money that the City paid.

Mayor Merz stated that the girl that the City now has still would like to do the work as long as she can.

Mr. Riesenhuber also stated that the Sportsman Club does use the Building on Easter Sunday for their Easter Egg Hunt if it is raining. He expressed his concern since the Council did Ok the use of the building on Sundays to the Mission Church.

The Council had some discussion on this and it was decided that this could be compromised quite easily.

3. DOG CONTROL

Mayor Merz stated that the Tri-Agency has had a change in directors and so far they have not sent the City the information on a contract that they were to send. She asked the Council if they were still interested in selling their own Dog Licenses.

The Council had some discussion on this issue. Several issues that had been previously discussed were discussed again. For now the City has made no decision.

4. LITTLE WOAHINK

Attorney Gerber asked the Council what is going on with the building freeze that the State Real Estate Commissioner put on Little Woahink. He was informed that the freeze is still affective.

5. EPW2

Attorney Gerber stated that Mr. Elliott did answer quite a few questions on what is going on with EPW2 at the last meeting that

- h he attended. However, the Council can have a Show Cause issued or they can let it ride awhile.

It was discussed and decided that the Office would send a letter to EPW2 stating that they are not in compliance with their conditions and that a Show Cause will be issued if this is not taken care of.

Mr. Petersdorf and Mr. Gerber stated that they would go out to the property tomorrow and check on the erosion.

6. Mr. Gerber stated that he did get the letter from the State answering his letter, whether a husband and wife can be on City Council and Planning Commission. They stated that it is OK.

XI. NEW BUSINESS

1. Council Vacancy - Jim Baumeister

Mayor Merz asked the Council if they would like to appoint Mr. James Baumeister to fill the Council vacancy that will be created when Mr. Petersdorf takes office as Mayor.

The Council discussed this to some length and it was decided that this should be taken care of in the new year after Mr. Petersdorf takes office.

2. Western Lane Transportation Committee

Mayor Merz stated that the Western Lane Transportation Committee will be doing a study of this area to see about the need for Mass Transportation. They would like one member of the City Council appointed to work with them and also a citizen at large.

The Council discussed this at length and nothing was decided. If anyone would have any suggestions before the Mayor went to the LCOG meeting next week please notify her with some names.

XII. ADJOURNMENT - 8:37

Shirley M. Merz
MAYOR

Debra Kay Stinger
SECRETARY

James G. Williams

James E. Baumeister

B. L. Fillman

Phil [unclear]

Ralph [unclear]