

DUNES CITY COUNCIL

REGULAR MEETING  
JANUARY 9, 1986

A G E N D A

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- III. BILLS AGAINST THE CITY
- IV. RECEIPTS OF THE SESSION
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DUNES CITY COUNCIL

REGULAR MEETING  
JANUARY 9, 1986

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 7:30 p.m. by Mayor James Baumeister.

PRESENT: D. Eastman, N. Johnson, B. Pitts, Mayor Baumeister, R. Donaghey, R. DePiero, Attorney Ron Gerber, City Recorder B. Stocking and secretary K. Bacon. There were six citizens in the audience and no representatives of the press.

II. APPROVAL OF MINUTES OF DECEMBER 12, 1985

ACTION

A motion was made by B. Pitts and seconded by N. Johnson to approve the minutes of the December 12, 1985, meeting amended with the following additional language:

Page 3. "Mr. Gerber had said that this was the time to address the issue of the docks for non-lakefront property. He felt the Covenants, Conditions and Restrictions should state that the non-lakefront lots do not have a right to a dock. Mr. Hartshorne said that he didn't want to do that because at some future date they may find that the lots could have a dock.

Mr. Gerber then said, "Bob, I'm not saying they can't have a dock; I'm saying that the non-lakefront lots do not have a right to have a dock."

Motion carried, and the minutes will be amended to include the above.

III. BILLS AGAINST THE CITY

There was a question about a charge for the rent while the City office was at Westlake Resort. B. Stocking explained how the insurance company was handling the matter. There was also a question about Attorney Gerber's bill. The council requested that Mr. Gerber submit times spent and a charge per item on his bill. The charges for long distance calls were listed by phone number, and the council requested that the bill show names rather than phone numbers. Mr. Gerber said that he would revise the bill and resubmit it with the changes.

ACTION

A motion was made by N. Johnson and seconded by B. Pitts to pay the bills against the City in the amount of \$4,116.24. Motion carried.

IV. RECEIPTS OF THE SESSION - \$2,729.29



V. ANNOUNCEMENTS AND CORRESPONDENCE

B. Stocking briefed the council on correspondence the City had received. The council took no action on any of the correspondence.

VI. REPORTS

- A. Roads. Keith Watson's road report stated that there was a tree leaning on Leavitt Loop. Deputy Sheriff Chuck Tidball felt that it was dangerous and should be cut down. The Mayor asked W. Johnson, the road commissioner, if he would take care of notifying the property owners that it should be removed. He agreed to do so.
- B. Dog Complaint. D. Eastman reported on a complaint the City had received from a citizen that a neighbor's dogs had killed her cat. Mr. Eastman had investigated the situation and talked to both the complainant and the dogs' owners. He had also checked the nuisance ordinance and had found that the ordinance exempts dogs and cats from abatement as a nuisance. Attorney Gerber explained that at the time the ordinance was created the City felt that with its rural atmosphere it did not want to create a policy of regulating cats and dogs.

Mr. Eastman had asked the dog owners to keep the dogs penned up and if they couldn't be kept within a fenced yard to tie them up. He said that apparently it is not working. The City had received a letter from another neighbor supporting the complainant's assertion that the dogs are a nuisance. D. Eastman asked that the City write a letter to the two dog owners involved asking that they keep their dogs penned up and send a copy of the letter to the complainant. However, without a leash law, and without being covered under the nuisance ordinance, the council questioned whether the City could do this. One of the families involved who owns two of the dogs had told Mr. Eastman that they would be moving the first week of February.

Mr. Eastman had some comments about the Sheriff's patrols. The Agreement with the Lane County Sheriff's Department states that they will provide ten (10) hours of patrols a week, and the patrols for November and December have been less than thirty hours per month. He wondered if the City is charged by the hour or pays a flat monthly fee. B. Stocking and the Mayor will check with the Lane County Sheriff about the patrols, the cost per hour and the monthly charge. D. Eastman said that there has been a cutback in the number of deputies in this area to provide patrols, and he wondered if there had also been a cutback in the charge to the City with the cutback in manhours spent on patrols.

- C. Planning Commission. Mayor Baumeister read the resignation from Chairman Tom Hunt of the Planning Commission. The council accepted the resignation with regrets and presented T. Hunt with a plaque in appreciation for his years of service to the City.

VII. PUBLIC HEARING - South Shore Subdivision - Robert Hartshorne

The mayor opened the public hearing at 8:13 p.m. Councilman Wally Johnson declared a conflict of interest since he had done some work on the property for Mr. Hartshorne and would be doing additional work for him in the future. He sat at the council table, but he did not participate in the discussion or vote on any of the issues.

Former-mayor Shirley Merz testified that she was not against the subdivision and was in the audience to learn more about the subdivision.

The mayor closed the public hearing at 8:15 p.m.

There was a discussion by the council of the roadways within the subdivision and of how they related to the Anderson property if it is ever subdivided.

Mr. Hartshorne was present with his wife, Attorney David Clark and surveyor Eugene Wobbe. The Hartshornes presented the council with copies of the following:

- A letter of intent to provide a letter of credit up to \$50,000 from Oregon Pacific Bank.
- A letter from Pacific Northwest Bell stating that telephone facilities will be provided and had been paid for on October 1, 1985.
- A letter from James Archer estimating the cost of installing street light fixtures, culverts and storm drain catch basin.
- A letter from McCaw Cablevision stating that the underground television cables to the lots had been installed and paid for.
- A letter from Central Lincoln P.U.D. stating that the installation of underground conduits and vaults has been completed and the power cable will be installed when the roads are graveled or the ground dries out. The installation has been paid for in full.
- A Bargain and Sale Deed between Mr. Hartshorne and James Banks conveying an undivided one-half interest in the east 7 feet of Lot 36 of Tsiltcoos Lake Club Plat.
- And some cost estimates from three contractors on finishing the roads within the subdivision. These were to help establish the amount for the letter of credit.

Attorney Gerber entered as Exhibit I his memo of December 27 to the council concerning the Hartshorne-Anderson Agreement. And he entered as Exhibit 2 his memo of December 27 to the council concerning the Hartshorne Subdivision and his recommendations concerning it.

These exhibits are attached to the minutes. Mr. Gerber read through his recommendations in Exhibit 2 and pointed out the areas where the City and the subdivision were in agreement and the areas or points where there was disagreement.

There was considerable discussion of water lines. The cost and feasibility of installing the water lines together with the electrical lines to pump the water from the lake were discussed. Mr. DePiero, a plumber, felt that easements providing access to the lake should be adequate and would save unnecessary expense to both the developer and the buyer of installing the water lines and electrical lines to operate the pumps. Therefore, Item 1 of Exhibit 2 was deleted by council agreement and water lines will not be required.

On Page 1 of Exhibit 2, Item #6, Attorney Gerber will remove the word "assess" and reference to water lines.

ACTION

A motion was made by R. DePiero and seconded by D. Eastman that the council not take Attorney Gerber's advice on Item #6, page 2 of Exhibit 2 concerning the Covenants, Conditions and Restrictions. Item #6 will be deleted.

The council also agreed to delete Items 9 and 10 of Exhibit 2, page 3, concerning the CC and Rs.

The meeting was recessed at 10 p.m. and reconvened at 10:15 p.m.

There was a discussion of Mr. Hartshorne's voting rights in the Homeowners Association and the right to mortgage the common areas. Throughout the discussion, Mr. Clark, Mr. Hartshorne's attorney, maintained that the City should not be insisting on inserting so many details into the CC and Rs since the buyer is protected by other state agencies. Mr. Gerber maintained that it was appropriate to have the CC and Rs specifically restrict and protect certain rights and privileges.

ACTION

A motion was made by R. Donaghey and seconded by D. Eastman to delete Item #4 of Exhibit 2, page 2, concerning the CC and Rs. Motion carried and the CC and Rs will keep the Class A and Class B membership designations.

ACTION A motion was made by N. Johnson and seconded by B. Pitts to strike the wording "more than 25%" and insert the wording "controlling interest" in Item #7 of Exhibit 2, page 2. Motion failed.

ACTION A motion was made by D. Eastman and seconded by R. Donaghey to delete all of Item #7 of Exhibit 2, page 2, concerning the conditions. Motion failed to pass.

ACTION A motion was made by R. DePiero and seconded by D. Eastman that Item #19 of Exhibit 2, page 4, concerning the CC and Rs be ignored. Motion carried.

ACTION A motion was made by D. Eastman and seconded by B. Pitts to eliminate Item 11 of the suggested change of the CC and Rs in Exhibit 2, page 3. Motion carried.

ACTION A motion was made by D. Eastman and seconded by R. DePiero to eliminate Item #16 of Exhibit 2, page 4. Motion carried.

ACTION A motion was made by R. Donaghey and seconded by D. Eastman to eliminate Item #22 as recommended in Exhibit 2, page 4, concerning the CC and Rs. Motion carried.

ACTION A motion was made by B. Pitts and seconded by R. Donaghey to accept the CC and Rs as written and corrected. Motion carried.

The council then reviewed the revised Plat Map of the subdivision that Mr. Hartshorne had brought to the meeting. The road name had been changed and there was a street light diagram.

Mr. Hartshorne estimated from the costs submitted to him by the contractors that it would cost \$36,000 to finish and pave the roads within the subdivision. The bank, as stated earlier, had shown an intent of issuing a letter of credit up to \$50,000.

Attorney Gerber will draft the final order, and he will reflect the council's wishes to request a letter of credit for \$36,000. Mr. Hartshorne will establish a new letter of credit each year until the roads are finished.

ACTION A motion was made by R. DePiero and seconded by B. Pitts to give final approval to the South Shore Subdivision of Mr. Robert Hartshorne adopting the conditions set forth in the preliminary approval and the conditions approved by the city council at this meeting which are in Exhibit 2 (that was five additional conditions), including a letter of credit for five years set at \$36,000 as one of the those five conditions.

As a part of the subdivision order, the Hartshorne-Anderson Agreement should be included plus Mr. Gerber's memorandum of December 27, 1985, clarifying the Agreement. The motion includes that the Covenants, Conditions and Restrictions be approved as submitted, that the Wobbe Plat be attached as an exhibit, that a copy of the legal on the cul-de-sac be attached as an exhibit, that the roadway diagram submitted by Mr. Wobbe be attached as an exhibit, and that the issue of docks for non-lakefront property within the subdivision will be subject to the normal Conditional Use Permit process of Dunes City. Motion carried.

IX. UNFINISHED BUSINESS

A. Siuslaw Sanitary Service.

ACTION

A motion was made by D. Eastman and seconded by R. Donaghey to approve Resolution 1-9-86A amending the refuse collection franchise service fee charge. Motion carried. There were no citizens present to testify.

B. Martin Luther King, Jr., Observance.

ACTION

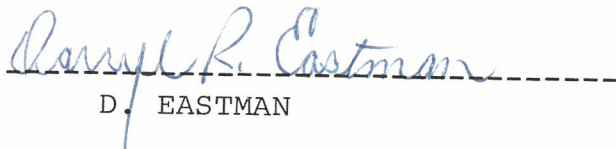
A motion was made by B. Pitts and seconded by W. Johnson to approve Resolution 1-9-86B requesting citizens of Dunes City to mark the observance of Martin Luther King, Jr., Day on January 20, 1986, by flying a flag and turning the lights of their car on at noon. Motion carried.

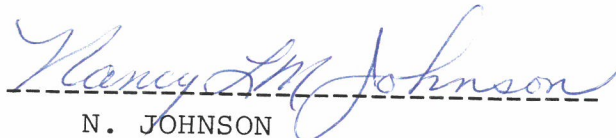
X. ADJOURNMENT

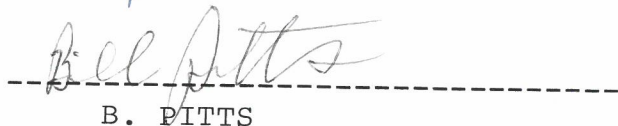
The meeting was adjourned at 12:25 a.m.

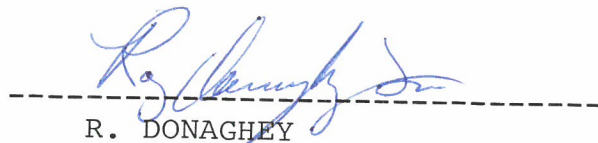
  
MAYOR J. BAUMEISTER


  
SECRETARY K. BACON

  
D. EASTMAN

  
N. JOHNSON

  
B. PITTS

  
R. DONAGHEY

  
R. DE PIERO

  
W. JOHNSON



## MEMORANDUM

To : Dunes City Council  
From : City Attorney  
Date : December 27, 1985  
Re : Hartshorne - Anderson Agreement

I have reviewed the Hartshorne - Anderson Agreement with the Mayor, and discussed it with Mr. Clark. I would suggest that Mr. Hartshorne and Mr. Anderson be requested to appear at the next City Council meeting, review the terms of this memorandum, and ensure that it accurately reflects the agreement and understanding between Hartshorne and Anderson. To my knowledge, the comments below simply make clearer the intent of the understanding between Hartshorne and Anderson.

1. In the introductory paragraph, second line, the word "predecessors" is a typographical error. That word should be **successors**.
2. The easement granted to Anderson in paragraph 1 under "Anderson" is an easement to use any and all roadways platted in the subdivision. Anderson will be allowed to obtain ingress and egress to this roadway system at the cul de sac adjacent to lots 17 and 18. Both parties agree that the easement will be recorded.
3. In paragraph 1 under "Hartshorne", the "right of access" includes ingress and egress. The "land lying south" is the seven foot strip purchased from Jim Banks, and is Tax Lot \_\_\_\_\_ in the Siltcoos Sportsman Plat.
4. (a) On page 2, paragraph 7, the word "excess" is a typographical error, and the word should be "access".  
  
(b) In the event the Anderson property should ever be subdivided, the City reserves the right to review the entire access, ingress and egress situation, and further reserves the right to require the developer of the Anderson property to make any necessary improvements in the Hartshorne subdivision streets that might be necessary in the opinion of the City to service the additional traffic. The costs of this improvement may be allocated to the Hartshorne development to the extent those lots are benefited.
5. The City will require a statement by the surveyor indicating that the legal description, plot plan, and line on the ground reflecting the boundary between Hartshorne and Anderson's property is consistent with the actual line on the ground, the plot plan, and legal description. I am assuming that that is the case, but given some of the language in this document, I want to ensure that there is no confusion and no misunderstandings.

DEC 30 1985

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'D. Gerber', written in a cursive style.

D. Ronald Gerber  
City Attorney



Exhibit 2

MEMORANDUM

To : Dunes City Council  
From : City Attorney  
Date : December 27, 1985  
Re : Hartshorne Subdivision

DEC 30 1985

The following is a compilation of various thoughts and ideas regarding Mr. Hartshorne's subdivision that have been communicated to me by various members of the City Council, City Staff, and some of my own. These are my recommendations about the changes and requirements that are needed before final approval is granted, or if final approval is granted, conditions that should be met before lots may be sold.

I think the platt and CC&R should be submitted to the City engineer for his review and input.

1. The developer must agree with the City that before any lots will be sold all water lines will be installed and there will be one water line for each lot, and no sharing of individual water lines.
2. Adequate security arrangements must be made to ensure that the utilities are installed. A letter of credit would be more than adequate. Mr. Hartshorne should produce bids or estimates indicating the approximate cost to complete the remainder of the work.
3. Adequate security arrangements must be made to ensure that installation of the blacktop, which is projected on down the road, does in fact occur. We are obliged to do that by ordinance.
4. When Lane County has to deal with a subdivision which is not serviced by sewers, but by individual septic systems, it will not grant subdivision approval until each site has preliminary septic approval. As a matter of policy in minor land partitions, Dunes City has followed this policy, and indeed, our subdivision ordinance (at page 32, section 5.04) seems to require that be done. It would be my recommendation that this be done in this instance, especially in view of the clay-like nature of the soil.
5. As the City Council is well aware, sometimes maintaining ditch lines in such a way as to prevent future erosion is difficult at best. The City, in its order of approval, should reserve the right for a period of two years, to require the developer to come back in and do additional work to stabilize the ditch line if that is reasonably necessary.
6. The order should provide that the developer will not attempt to assess benefited lots for installation of utilities, including but not limited to

water, electric, telephone, cable T.V., and roadways (including paving). That cost should be reflected, up front, in the purchase price.

7. The City should also add a condition requiring prior City Council approval of any assessment which directly or indirectly benefits the developer so long as he owns more than 25% of the lots in the subdivision either directly or constructively, and further providing that any assessment so levied without prior City approval shall, at the election of the City, be voidable, abinitio. The City may accomplish this after a public hearing by the City Council, and the City lay then order the developer to take whatever steps are reasonably necessary to re-establish the pre-assessment status quo.

8. The developer should be obliged to deliver to the purchaser a 1/27th undivided interest in the Banks property to ensure right of ingress and egress.

9. The City should require, pursuant to the subdivision ordinance on page 32, Section 5.02, that the plans relating to the roadway be properly engineered, including the future planned blacktop, submitted to the City engineer, and obtain City engineer approval. All of this to be done prior to the City's final approval becoming effective.

#### COVENANTS, CONDITIONS, AND RESTRICTIONS

It would be my suggestion that the following conditions, changes or modifications be made in the CC&R presented by the developer.

1. The CC&R should state that the developer is to **file** with the City the final approved copy, which will be maintained in the City's files and records, and further stating that they are available for inspection at City Hall.

2. There should be an additional statement that the City does **not waive any right** granted it by statute, ordinance, or comprehensive plan, unless expressly waived in the order granting final approval.

3. **Setback requirements** (page 12, paragraph 20) should be re-worded to simply state the setback requirements shall be as set forth in the Dunes City Code, and acknowledge that from time to time the City could alter those requirements to the detriment or benefit of property purchasers.

4. I do not understand the purpose of Article III - 2 - **Class B - Class A**. As the covenants are worded, if Mr. Hartshorne owned only seven lots, he would be able to outvote the other 19 lot owners. I would recommend that he be obliged to terminate the Class B membership once more than 50% of the lots were sold.

5. Delete the word **lawns** from Article IV, Section 1, page 4, as the water permit that will be issued by the State to the homeowners will not allow them to utilize water from Woahink Lake to water lawns.

6. In addition, someplace in Article IV, Section 1, page 4, there should be a representation, in capitalized letters, indicating that the owners have to apply

for their own **water permit** from the State, and that the owner will be obliged to install and maintain their own **pump** at the lake.

7. Subparagraph "e" should be eliminated. The City Council, at this point, apparently would oppose creating any type of "public" park within the confines of this subdivision.

8. Article IV, Section 4, page 5 - 6, should contain a statement that **shared driveways** will not be allowed. The reason for that requirement is that shared driveways have a tendency to create many difficulties when one household parks in them, breaks down in them, refuses to participate in maintenance, etc. Those difficulties have a tendency to spill over into the City government, and could be avoided through proper planning. In addition, this section should oblige each lot owner to install, and adequately maintain, culverts under their driveways at the ditchline adjacent to the road so as to prevent erosion and other water damage to the roads.

9. The word **recreation** should be removed from Article V, Section 2. I would suggest that the City imposing assessments for recreational purposes is not something the City should ordinarily authorize a homeowners association to impose upon its membership.

10. Section 8, paragraph 4, page 8, the word **Lane County** should be deleted and Dunes City should be inserted.

11. I would suggest that the entire Section 10, page 9, be removed. It is not clear what is contemplated. It may effect the ability of purchasers to borrow on these lots. If that turns out to be the case, the developer will be back asking that this be amended. The priority of homeowner assessments are governed by State statute, and I would recommend that the City not attempt to tamper with that.

12. Section 6, page 10, a sentence should be added indicating that anyone wishing to keep **farm animals** on their property must also obtain a conditional use permit from Dunes City prior to bringing them on their property.

13. Section 9, page 10, should deal with **television dishes** and indicate whether they will be allowed, whether they will be regulated, and if regulated, how. The City has no official position as to dishes, and whatever the developer might choose, to the best of my knowledge, would be acceptable to the City Council.

14. Section 10, page 10, should indicate that no **parking** will be allowed on any of the streets within the subdivision. The developer has been granted leave to build a substandard street. Anybody parking on that street could impair passage of emergency vehicles or even day to day routine traffic. Thus, it should be discouraged.

15. Section 13, page 11, allows **mobile homes**, and appears to be a typographical error. In addition, if Section 11, page 11 is meant to allow only stick built homes, that should be specifically stated therein. If mobile homes will be

allowed, that should be specifically stated therein.

16. Section 17, page 11, should be modified to **allow burning of brush** and other vegetation trimmed or removed from the lot to be burned on the lot from which it is trimmed or removed. Otherwise, this material is going to be dumped in the back woods or placed in a sanitary landfill. I would suggest to the City Council that as a matter of public policy, it is better to burn brush and other native debris, and reserve the space in the landfill for non-burnable garbage.

17. On page 1, paragraph 1, "**Anne E. Hartshorne**" should be changed to "Anne E. Cross".

18. The language in Article 3, Section 1, page 3, is extremely confusing. It is possible to construe that paragraph such that anyone who had a mortgage on their house would not be entitled to voting status in the association. I would suggest the language be redrafted:

... member of the association. [Provided that such person or entity that holds such interest merely as security for the performance of an obligation shall not be the member.] Lienholders shall not be members of the association, nor shall they have any right to participate or vote as members thereof.

19. I would suggest that Subsection 3-a, page 5, be removed. The developer ought not to have the **right to mortgage the common areas**. In the event of default, foreclosure, and transfer of title fee simple to a third party, the spectrum of problems that could arise is almost infinite. I would suggest that subparagraph A. be modified to include language specifically prohibiting the developer or the association from encumbering the common areas.

20. Section 3 - 5, page 5, should be modified to restrict the right to charge **entry and admission fees** to association members, their tenants, and their guests.

21. I would suggest that the language in Section 4, page 6 allowing the association to **relocate an owners driveway** be struck from the CC&R, unless the developer can adequately justify a need for this language.

22. Section 17, page 11 should be modified to allow **portable outdoor barbeques, hibachis, etc.**

23. Section 22 should be modified to specifically recite that it would be necessary for a lot owner to obtain a City conditional use permit before **installing a dock.**

Respectfully Submitted



D. Ronald Cerber



DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made this \_\_\_\_ day of January, 1986, by Robert N. Hartshorne and Marianne Hartshorne, husband and wife, and H. Chandler Cross and Ann E. Cross, husband and wife, (hereinafter called "Developer").

W I T N E S S E T H :

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration and desires to create thereon a residential community with permanent open spaces and other common facilities for the benefit of said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said open spaces roadways and other common facilities; and, to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereafter created; and

WHEREAS, Developer has incorporated under the laws of the State of Oregon, as a non-profit corporation, THE SOUTH SHORE HOME-OWNERS ASSOCIATION, for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Developer declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this declaration or any supplemental declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the SOUTH SHORE Homeowners Association.

(b) "The properties" shall mean and refer to all such existing properties as are subject to this declaration or any supplemental declaration under the provisions of Article II, hereof.

(c) "Common properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of the properties and intended to be devoted to the common use and enjoyment of the owners of the properties.

(d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of common properties as heretofore defined.

(e) "Living unit" shall mean and refer to any portion of a building situated upon the properties designed and intended for use and occupancy as a residence by a single family.

(f) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot or living unit situated upon the properties, but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(g) "Member" shall mean and refer to all those owners who are members of the Association as provided in Article III, Section 1, hereof.

(h) "Architectural Control Committee" shall be either the Board of Directors of the Association or a committee of three or more representatives appointed by the Board. At the option of the Board of Directors, this committee may be expanded to include the three representatives appointed by the Board, and up to three additional members of the Board of Directors.

(i) "Recreation Facilities" means the real and personal property improvements now existing and hereafter constructed and placed upon the common area.

(j) "Roads" means all interior, private roads within all platted portions of the properties.

(k) "Mobile Home", "Camper", "Motor Home", "Travel Trailer", and "Motorcycle" mean what such terms mean in ORS Chapters 481 and 483, which statutory definitions and any subsequent modifications thereto are incorporated herein by reference.

(l) "Modular Home" means a residence constructed off the premises and delivered in discreet units for final assembly on the site, said units being constructed of wood and other like materials, but not of canvas or like materials, and having a floor, roof, and two or more walls, and does not include a tent, or a mobile home.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

Section 1. EXISTING PROPERTY. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this declaration is located in Lane County, Oregon, and is more particularly described as follows:

SOUTH SHORE, a subdivision in its entirety, as platted and recorded in File \_\_\_\_\_, Slide \_\_\_\_\_, Lane County Oregon Plat Records, in Lane County, Oregon,

all of which real property shall hereinafter be referred to as "existing property".

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. MEMBERSHIP. Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association shall be a member of the Association. Lienholders shall not be members of the Association, nor shall they have any right to participate or vote as members thereof.

Section 2. VOTING RIGHTS. The Association shall have two (2) classes of voting membership:

CLASS A. Class A members shall be all those owners as defined in Section 1, with the exception of the Developer. Class A members shall be entitled to one vote for each lot in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any lot, all such persons shall be members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot.

CLASS B. Class B membership shall be in the Developer. The Class B member shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Section 1, provided that the Class B membership shall cease and become converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) on January 1, 1991.



From and after the happening of these events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member entitled to one vote for each lot in which it holds the interests required for membership under Section 1.

#### ARTICLE IV

##### PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. GENERAL EASEMENT. All conveyances of land situate in the said property, made by the Developer, and by all persons claiming by, through, or under the Developer, shall be subject to the foregoing and following restrictions, conditions and covenants, whether or not the same be expressed in the instruments of conveyance, and each and every such instrument of conveyance shall likewise be deemed to grant and reserve, whether or not the same be declared therein, mutual and reciprocal easements over and across all of the common areas of said property for the purposes of traveling by foot or conveyance or resting or otherwise being thereon, and over, under and across all portions of said property (except those portions thereof actually intended to be occupied as living space in any building now or hereafter located upon said property and specifically including [without being limited thereto] the interior of party walls, attic crawl spaces and the area below the living space in any living unit) for the purpose of building, constructing and maintaining underground or concealed electric and telephone lines, gas, water, sewer, storm drainage lines, radio and television antennae and cables, and other utilities and services now or thereafter commonly supplied by public utilities or municipal corporations and upon all common areas for constructing and maintaining thereof streets, driveways, community and recreational facilities, ornaments and statues, swimming pools, landscaping and planted areas thereon; all of said easements shall be for the benefit of all present and future owners of property subjected to the jurisdiction of the Association by recorded covenants and restrictions, recorded as hereinabove provided, and their tenants, contract purchasers and guests; said easements and rights of use, however, shall not be unrestricted but shall be subject to reasonable rules and regulations governing said right of use, as promulgated from time to time by the Directors of the Association in the interest of securing maximum safe usage of said easements without unduly indulging upon the privacy of the owner or occupant of any part of said property. An easement over, upon and across all parts of said property is granted and reserved to the Association, its successors and assigns to the extent reasonably required to perform exterior maintenance and to the extent reasonably necessary to perform other maintenance reasonably necessary or advisable to protect or preserve the value of the said property and the living units thereon.

Section 2. TITLE TO COMMON PROPERTIES. The Developer may retain the legal title to the common properties thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same, but, notwithstanding any provision herein, the Developer hereby covenants, for itself, its heirs and assigns, that it

shall convey the common properties to the Association, free and clear of all liens and encumbrances, not later than January 1, 1996, or upon the demand of the Association.

Section 3. EXTENT OF MEMBERS' EASEMENTS. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Developer and of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the common properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage the lender's rights hereunder shall be limited to a right, after taking possession of such properties, to charge admission and other fees to Association members, their tenants and/or guests, as a condition to continued enjoyment by the members, until the mortgage debt is satisfied whereupon the possession of such properties shall be returned to the Association and all rights of the members hereunder shall be fully restored; and

(b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure; and

(c) the right of the Association, as provided in its Articles of Incorporation and Bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(d) the right of the Association to charge reasonable admission and other fees for the use of the common properties to Association members, their tenants and/or guests; and

(e) the right of the Association to regulate other activities that would potentially interfere with vegetation located on the common areas; and

Section 4. DRIVEWAYS. Each lot shall have access to the nearest street as shown on the plat, such access to be a minimum of fifteen (15) feet wide. Shared driveways shall not be allowed. Each lot owner shall install and maintain culverts under said driveways adjacent to the road to prevent damage or erosion. The location of such access shall be initially determined by the Architectural Control Committee. Once a lot has been purchased and access constructed as approved, the location of such access shall not be required to be moved, except at the request of the owner.

## ARTICLE V.

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Developer for each lot owned by him within the properties hereby covenants and each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due.

Section 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the properties and in particular for the improvements and maintenance of properties, services, roads and facilities devoted to this purpose and related to the use and enjoyment of the common properties and of the homes situated upon the properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS. Until the year beginning January 1, 1991, the annual assessment shall be One Hundred Eighty Dollars (\$180.00) per lot. From and after January 1, 1991, the annual assessment may be changed by vote of the members, as hereinafter provided, for the next succeeding three (3) years and at the end of each such period of three (3) years for each succeeding period of three (3) years.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association fix the actual assessment for any year at a lesser amount.

Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this

purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. CHANGE IN BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS. Subject to the limitations of Section 3 hereof, and for the period therein specified, the Association may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period, provided that any such change shall have the assent of two-thirds ( $2/3$ ) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than fifteen (15) days nor more than sixty (60) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article II, Section 2, hereof.

Section 6. QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 4 AND 5. The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of members, or of proxies, entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at any such subsequent meeting shall be one-half ( $1/2$ ) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable on the first day of March of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve (12).

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each lot for each assessment period of at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any owner.

Written notice of the assessment shall thereupon be sent to every owner subject thereto.

The Association shall upon demand at any time furnish to any owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

The Board of Directors shall present at its annual meeting for information to the membership a proposed annual budget setting forth the anticipated repair, maintenance and capital improvement costs for the coming year.

The Board of Directors shall manage the affairs of the Association so as to maintain at all times a minimum balance of One Thousand (\$1,000.00) Dollars, available for repairing and maintaining the properties owned by the Association.

Section 9. EFFECT OF NON-PAYMENT OF ASSESSMENT: THE PERSONAL OBLIGATION OF THE OWNER; THE LIEN, REMEDIES OF ASSOCIATION. If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty days after the delinquency date, the assessment shall bear interest from the date of delinquency at a rate equivalent to the current prime interest rate charged by the First National Bank of Oregon on the date of the assessment, and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court, together with the costs of the action.



Section 10. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 11. EXEMPT PROPERTY. The following property subject to this declaration shall be exempted from the assessments charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by any public authority and devoted to public use; (b) all Common Properties as defined in Article I, Section 1, hereof; (c) all properties exempted from taxation by the laws of the State of Oregon, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

## ARTICLE VI

### INITIAL USE RESTRICTIONS

Until cancelled, amended or otherwise changed by the Association, which changes the Association shall have the power to make notwithstanding the amendment limitations in Article X herein, the following use restrictions apply to the properties:

1. No lot shall be used for other than residential purposes or permitted uses under applicable Dunes City Ordinances and no buildings shall be erected on any lot except dwelling, garages or carport, barns, swimming pool, tennis court, non-commercial greenhouse and garden shed.

2. No structure of a temporary character, basement, partly finished house, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. All structures, additions or alterations shall be completed within six (6) months from a starting date. Open carports shall not be used for storage other than that enclosed by wall of the structure.

3. Landscaping as approved by the Architectural Control Committee shall be completed not more than thirty (30) days after occupancy or such other period, not to exceed six (6) months, as the Architectural Control Committee may approve. Completed landscaping shall be maintained in a neat and healthy condition. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to

the neighborhood.

4. Accept as needed by Developer, no sign of any kind shall be displayed to the public view on any lot, except a sign not more than five (5) feet square advertising the property for sale or rent by the owner, which must be not less than twenty (20) feet from the front property line.

5. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

6. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot without the approval of the Association, and in accordance with Dune City Ordinance except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose and do not create objectionable noise or odor and are maintained on a leash when off the owner's property.

7. No lot shall be used or maintained as a parking place for trucks, trailers, equipment or materials, except during the course of construction, or by Developers, or used as a dumping ground for rubbish, or used as a parking place for vehicles not in regular family use and good operating condition.

8. Trash, garbage or other waste shall not be kept, except in sanitary containers emptied weekly. All incinerators, garbage cans or other equipment for the storage of or disposal of such material shall be kept in a clean and sanitary condition enclosed by fences that screen them from sight. Storage of any kind of goods, chattels, merchandise, material, fuel, supplies or machinery shall be within walls of the building, or enclosed by tight fences that completely screen it from sight.

9. No TV antenna erected on any lot shall extend more than six (6) feet above the portion of the roof of the dwelling on which it is mounted. Television dishes shall be allowed if installed at ground level and specially allowed on structures only after approval of the Architectural Control Committee.

10. No travel trailers, campers, boat trailers, trucks and similar vehicles, may be parked on any paved portion of the street right of way, and no vehicles may be parked for a period exceeding eight (8) hours on the balance of the street right of way accept with the approval of the Association, or in accordance with regulations promulgated by the Association.

11. All dwelling units shall be stick built homes with a floor area of not be less than one thousand eight hundred (1,800) square feet. Garages, carports, porches and any other structures or space



not designed and intended for residential use and occupancy shall not be included in calculating the floor area of any living unit. All dwelling units shall also include a minimum of a two (2) car garage.

12. Building Type. Storage buildings may be constructed on each lot. Each shed shall comply with any applicable building code. The exterior of all such sheds shall be dull in color and shall be otherwise finished in a manner that shall blend inconspicuously with natural vegetation. The Architectural Control Committee shall be the sole arbiter of compliance with this provision.

13. Dwelling Types. Unless prior, written consent of Developer and the Architectural Control Committee is obtained, dwelling units shall be restricted to the types described in Section 11 of this Article VI. All dwelling units shall meet the Uniform Building Codes of the State of Oregon.

14. Clotheslines. No clotheslines, clothes racks or other apparatus on which clothes, rugs, or similar items are exposed for the purpose of drying or airing shall be located on any lot except in the rear yard thereof. Any such clothesline area shall be adequately concealed so as to screen the view thereof.

15. Drainage. Each grantee of a lot agrees for himself and his heirs, successors, and assigns that he will not interfere in any way with the natural drainage of water over his lot from adjoining or other lots, or that he will make adequate provision for proper drainage in the event it is necessary to change the natural flow of water drainage over his lot. Prior approval must be obtained from Developer in writing before such changes are attempted. For the purpose hereof, "natural" drainage is defined as the drainage which would naturally occur at the time the overall grading plan, including any finish grading of each lot, has been completed by the Developer.

16. Trees and Hedges. All trees, hedges, shrubs, flowers and trees growing on a lot shall be maintained and cultivated so that plant insects, pests and diseases shall not be a menace or detrimental to the trees, hedges, shrubs, flowers, lawns or other vegetation within the neighborhood or to surrounding properties. All snags are to be removed from the premises.

17. Burning. Except during construction or initial stages of development, no outside burning of any kind shall be conducted on any lot, except that each lot owner may have and operate a barbecue or fireplace of ordinary domestic proportions. No fire shall be left unattended at any time. All barbecue and fireplace areas shall have sufficient clearance from vegetation and other combustible materials to prevent any escape of fire, and all fires shall be conducted in the approximate center of a fireproof platform constructed of concrete or of sand and gravel of the depth of not less than six (6) inches and extending not less than four (4) feet in all directions of an active fire.

18. Speed Limit. Speed limit on all roads is fifteen (15) miles per hour.

19. Fences. No fence, gate, or similar structure may be constructed or placed on any lot without the prior, written approval of Developer and Architectural Control Committee.

20. Set Backs. All set backs shall be as established by Dunes City Ordinance.

21. All trails on property within the subdivision may not be used by motorcycles, off road vehicles, or all terrain vehicles in order to maintain the natural vegetation.

22. Specifically as to Lot 17, no dock structure shall be constructed from the northern most point of the lot, the westerly one third of the shoreline. Specifically as to Lot 18, one dock for the use of Lot 18 only shall be allowed. As to all docks, they shall be constructed in accordance with Dune City ordinances, which provide currently for a conditional use permit to be obtained before installation of a dock.

#### ARTICLE VIII.

##### ARCHITECTURAL CONTROL COMMITTEE

Section 1. REVIEW BY COMMITTEE. No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by any architectural control committee composed of three (3) or more representatives appointed by the Board. In the event said board, or its designated committee, fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. SOIL AND VEGETATION PROTECTION. The natural state, other than routine maintenance or removal of hazards to life, of any lot or common area shall not be intentionally and materially changed by any person without first obtaining the approval of the Architectural Control Committee or proceeding under rules promulgated by such committee. The committee shall grant no such approval nor promulgate such rules without first consulting with a person with special knowledge coastal vegetation. Failure by the Board of Directors or Architectural Control Committee to approve or disapprove within thirty (30) proposals submitted to it under this section will remove the

requirement for approval in exactly the same manner as outlined in Section 1 of this Article.

## ARTICLE XI.

### EXTERIOR MAINTENANCE

Section 1. EXTERIOR MAINTENANCE. In addition to maintenance upon the common properties, the Association shall provide exterior maintenance upon each lot which is subject to assessment under Article V hereof, as follows: paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements.

Section 2. ASSESSMENT OF COST. The cost of such exterior maintenance shall be assessed against the lot upon which such maintenance is done and shall be added to and become part of the annual maintenance assessment or charge to which such lot is subject under Article V hereof and, as part of such annual assessment or charge, it shall be a lien and obligation of the owner and shall become due and payable in all respects as provided in Article V hereof. Provided that the Board of Directors of the Association, when establishing the annual assessment against each lot for any assessment year as required under Article V hereof, may add thereto the estimated costs of the exterior maintenance for that year but shall, thereafter, make such adjustment with the owner as is necessary to reflect the actual cost thereof.

Section 3. ACCESS AT REASONABLE HOURS. For the purpose solely of performing the exterior maintenance required by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the owner, to enter upon any lot at reasonable hours on any day except Sunday.

Section 4. Exterior maintenance as provided by this Article shall be provided in the first instance by individual owners. The Association shall provide such maintenance when an individual owner has not provided maintenance to the standard adopted by the Association and after written notice to such individual owner of non-compliance, such notice to include a reasonable time to comply with applicable standards.

## ARTICLE X.

### GENERAL PROVISIONS

Section 1. DURATION. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time

said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by the then owners of two-thirds (2/3) of the lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

Section 2. NOTICES. Any notice required to be sent to any member or owner under the provisions of this declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member or owner on the records of the Association at the time of such mailing.

Section 3. ENFORCEMENT. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these Covenants; and failure by the Association, owner or other person or entity having the right to enforce these covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. SEVERABILITY. Invalidation of any of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 5. CITY FILING. As a part of initial approval of this subdivision, Dunes City has directed the following be specifically set forth by this document and the final, approved and recorded copy of these declarations be filed with the City, which shall be maintained in the City's files and records, and available for inspection at City Hall.

"Dunes City does not waive any right granted it by statute, ordinance, or comprehensive plan, unless expressly waived in the Order granting final approval."

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Robert N. Hartshorne

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Marianne Hartshorne

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H. Chandler Cross

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Ann E. Cross

STATE OF OREGON)  
                  ) ss.  
County of Lane )

On this \_\_\_\_ day of January, 1986, before me personally appeared the above named Robert Hartshorne and Marianne Hartshorne, H. Chandler Cross and Ann E. Cross, and acknowledged the foregoing instrument to be their voluntary act and deed.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

DUNES CITY COUNCIL

REGULAR MEETING  
FEBRUARY 13, 1986

A G E N D A

- I. CALL TO ORDER AND ROLL CALL
- II. APPROVAL OF MINUTES OF JANUARY 9, 1986
- III. BILLS AGAINST THE CITY
- IV. RECEIPTS OF THE SESSION
- V. ANNOUNCEMENTS AND CORRESPONDENCE
- VI. REPORTS
  - A. Planning Commission
  - B. Resignation - Wally Johnson
  - C. Cable TV - Re: Programming Change
- VII. EXECUTIVE SESSION a) Litigation, b) Personnel, c) Negotiations
- VIII. PUBLIC HEARING - Richard Anderson - ATV Rental and Camel Rides
- IX. UNFINISHED BUSINESS
- X. NEW BUSINESS
  - A. Mike Johnson - Siuslaw Sanitary Service
  - B. Doug Campbell - Siltcoos Heights Water System
  - C. Municipal Govt. Education Session
  - D. Gregor Audit
  - E. Kiwanis Club Nominations
- XI. CITIZEN INPUT ON UNSCHEDULED ITEMS
- XII. ADJOURNMENT

DUNES CITY COUNCIL

REGULAR MEETING  
FEBRUARY 13, 1986

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 7:30 p.m. by Mayor James Baumeister.

PRESENT: D. Eastman, N. Johnson, B. Pitts, Mayor Baumeister, R. Donaghey, R. De Piero, City Recorder B. Stocking, and secretary K. Bacon. Attorney Gerber had asked to be excused from the meeting. There were two representatives of the press and 20 citizens in the audience.

II. APPROVAL OF MINUTES OF JANUARY 9, 1986

There were no corrections to the minutes, and they were approved as presented.

III. BILLS AGAINST THE CITY

ACTION A motion was made by B. Pitts and seconded by N. Johnson to pay the bills against the City in the amount of \$5,476.47. Motion carried.

IV. RECEIPTS OF THE SESSION - \$7,254.79

V. ANNOUNCEMENTS AND CORRESPONDENCE

B. Stocking reviewed for the council the correspondence the City had received since the last meeting.

VI. REPORTS

A. W. Johnson - Resignation. The mayor read a letter of resignation from council member Wally Johnson.

ACTION A motion was made by N. Johnson and seconded by B. Pitts to accept the resignation of Mr. Wally Johnson with deepest regrets. Motion carried. The City will advertise for applications.

B. Cable TV - B. Pitts read a letter from Carroll Lockhart of McCaw Cablevision. He reported that Home Shoppers' Network (without notifying McCaw) had sublet some hours from C-Span. The viewer response to it has been good. On March 8, Channel 11 will be pre-empted by Home Box Office.



- C. Salary Increase. The mayor reviewed for the council the request of the office staff and custodian for a 4% salary increase. Money to cover the increase is currently in the 1985-86 budget.

ACTION

A motion was made by R. Donaghey and seconded by N. Johnson to approve a 4% salary increase for the city recorder, secretary and custodian. Motion carried.

- D. Road Report. Road Supervisor Keith Watson reported that he had cut down a tree on Leavitt Loop that was leaning dangerously over the road. He had given the wood to the man who had helped him remove the tree.
- E. Police Report. D. Eastman reported that a call to the county sheriff's office found that Lane County owed the City 61 hours of sheriff's patrols that had been charged to the City but not given. Rather than have the deputy make up the hours all in one month, the council preferred to have the 61 hours spread out evenly over the duration of the contract.

V. PUBLIC HEARING - Richard Anderson - ATV's and Camel Rides

The mayor opened the public hearing at 7:50 p.m. The mayor explained that the hearing was held to gather input from citizens. The property is under the jurisdiction of Lane County, and the County will be holding a hearing on the matter February 20 at 2:30 p.m.

Dr. Anderson explained that he owns 22 acres on the west side of Highway 101. He has made arrangements with Gary's ATC Rentals to add up to ten (10) 4-wheeled ATV's on the same site with his camel rides attraction. He said the ATV's would be well-muffled and would be less noisy than the older Odysseys. He said that in the past the "No Trespassing" signs he had placed along his property lines in the dunes had worked for awhile to keep off-road vehicles from intruding into his property. But over a period of time, the signs had not been maintained; and they were not effective in keeping people off his property. He said that, as part of the agreement, Gary Philbrick would maintain the signs along the boundaries of his property to help keep the noise down. They would rent the vehicles from 9 a.m. until dusk. There would be no riding after dark. They would rent the vehicles during the summer and peak holiday weekends. There would be no new signs. He would use the signs the City had approved last season. The machines would not be serviced on the site. There would be no additional buildings on the site. There will be a caretaker on the site. The ATV's will be left on the site rather than trailered back and forth and will be locked up at night.

N. Johnson recommended that Dr. Anderson submit drawings of the signs to the City and specify the exact location of sign placement before he installs them. She also mentioned incidents when people in large RV's had parked on the east side of Highway 101 and had walked across the highway in front of her car. She stated that it was a dangerous situation that she would like to see Dr. Anderson avoid this year. She suggested that he remove additional vegetation on the parking site to make it easier to pull into the parking lot on the west. Dr. Anderson said the State Highway Department may not allow him another driveway to make a pull-through for the parking lot since the Highway Department has stringent regulations covering the number of driveways allowed.

John Carlson read a letter from Martha Jakob, a nearby neighbor to the Anderson property. She was not at the meeting, and her letter is incorporated herein by reference and attached to the minutes. Ms. Jakob was opposed to adding the ATV's to the site. She thinks they will be detrimental to her property.

John Carlson read his comments. His comments are also attached to these minutes. Mr. Carlson is against strip development along Highway 101. He thinks the ATV's will attract more such vehicles to the area. He also thinks it will increase noise, trespassing onto private property and vandalism.

B. Stocking read a letter into the record from Mr. and Mrs. Donald Tillman who are also opposed to the addition of the ATV's. They were concerned about the noise that would result and the traffic hazard on Highway 101. The Tillmans live on Woodland Lane across Woahink Lake from the proposed site. Their letter is attached to the minutes.

B. Pitts asked Dr. Anderson if he had said that he would have a corridor from his site to the dunes. Dr. Anderson said that he would. Bill suggested that he would like to see one of the ATV's and check for noise.

Dr. Sam Marinesi who lives on Salal across Woahink Lake from the site testified that he thinks it's fine to bring in more business. And he thinks Dr. Anderson should be able to use his property to its fullest since he owns it. He said that if the ATV's are quiet, he does not object. However, if they are noisy, he strongly objects. He hears the vehicles that are on the dunes now even into the middle of the night.

B. Stocking, testifying as a citizen, said that dusk is 9 or 9:30 at night which is pretty late, she thinks. She, too, has been bothered by the sound of the dune buggies carrying across the lake. When the City was first notified by Lane County last year about the camel rides, the City was told that the attraction would not be allowed if there was parking on the east side of Highway 101. Apparently, there was not much reporting of those who parked on the east, she said.

Ev Barber testified that he is opposed to the ATV's because of the noise. He thinks that adding 10 ATV's would attract even more to the area from those who are out on the dunes.

Darlene Castle said that she walks the dunes on the average of three times a week. She said that she has stopped people she has seen on private property and told them they were trespassing onto private property. She said they have left just long enough to drive about 100 yards farther down the beach and then have driven back onto private property. She thinks the signs along the boundary lines will have no effect.

The mayor closed the public hearing at 8:28 p.m. John Carlson asked if the council was going to make a recommendation to Lane County following this hearing. The mayor said that the City would be sending a transcript of the hearing to the Lane County Hearings Officer.

#### VI. OLD BUSINESS

There was no old business.

#### VII. NEW BUSINESS

- A. Siuslaw Sanitary Service. Mr. Mike Johnson would like to sell his business to BGL, Inc., of Salem. Mr. Johnson introduced the owners, Gale and Leo Buchheit, the prospective buyers. The mayor appointed B. Pitts, N. Johnson and R. Donaghey to study the proposal and report to the council at its regular March meeting concerning the franchise transfer. Among the items the committee will consider are whether to transfer the franchise or implement a licensing ordinance. The current franchise with Siuslaw Sanitary runs until August, 1987. The mayor read a list of some of the items the committee would consider. Among them were: proof of insurance, a financial statement from the buyers, a list of equipment being sold and a performance bond. The committee will schedule a meeting with Mr. Johnson as soon as possible.

- B. Siltcoos Heights Water System. Mr. Doug Campbell of Siuslaw Water Systems would like to buy and expand the Siltcoos Heights Water System. However, the Lane County Boundary Commission has declared a moratorium on expanding existing water systems because Dunes City has indicated in its Comprehensive Plan that it is interested in developing a municipal water system. Mr. Campbell said that he cannot go through the several steps necessary to obtain county and state permission without Dunes City stating that the proposal is not in conflict with the present plan or with plans for the foreseeable future. The mayor said that if Mr. Campbell does enlarge the present system, the City would be interested in knowing where the pipes are laid in relation to the streets.

Mr. Campbell discussed his anticipated costs and expansion with the council. He is interested in expanding the present system to serve 200 homes. The system presently serves 50 homes.

ACTION A motion was made by R. DePiero and seconded by N. Johnson to send a letter to the Lane County Boundary Commission stating that the proposal of Mr. Doug Campbell to purchase and enlarge the Siltcoos Heights Water System is not in conflict with plans for a municipal water system. Motion carried.

- C. Kiwanis Club Nomination. The City had received a letter from Mr. Michael Gaston of the Kiwanis Club requesting nominations for the Future First Citizen and the First Citizen Award(s). N. Johnson recommended Desiree Fish. The secretary will call her parents for a resume of her accomplishments to include in the letter of nomination to Kiwanis. The council also nominated Mr. and Mrs. Joe Aringdale of the Manna Foods program for joint First Citizen of 1985.

- E. Gregor Audit. B. Stocking read a letter from Gregor Professional Corporation about continuing the audit agreement the City has with them. They propose to audit the books for the 1985-86 fiscal year for a fee not to exceed \$1,549.

ACTION A motion was made by N. Johnson and seconded by R. Donaghey to accept the Gregor audit fee and to continue the audit agreement. Motion carried.

DUNES CITY COUNCIL MEETING      FEBRUARY 13, 1986  
RE: Public Comments on Anderson Dune Buggy Proposal

The majority of Dunes City and local county residents don't care too much about benefitting a handful of tourist businesses in Florence. Not when we have to put up with the added traffic congestion and noise pollution and the carnival atmosphere detracting from the view of the lake and dunes. The major business of Dunes City is the retirement industry which also helps the Forest Industry.

This retirement industry is the backbone and mainstay of all business on the coast in good times and bad. Natural scenic beauty is the main attraction to retirees not the junk yard in motion that is proposed here.

The employment in this type of tourist trap operation is the poorest kind. It is minimum wage and lasts for 5 months with all rainy days off at no pay.

That is an amazing claim that the adjoining property owners will benefit because the operators will try to minimize the noise, trespassing and vandalism they will create in the first place.

Dunes City surveys show that the local majority are repeatedly against strip development and increased commercial activity on Highway 101. Five years ago Dunes City went to great expense to stop the rezoning of the adjoining county property to Commercial. The City even secretly rezoned the lakefront sliver of adjoining land to R-1 from Commercial so that an "off premises" sign would not be possible. A compromise was reached which permitted 1 -six foot high sign which is easily blocked.

The quiet Camel Rides seemed harmless enough so that there was a delayed objection to all the crumby signs nailed to tree trunks. On review the City granted permission for 2 "off premises" signs on R-1 land one of them 11 foot high.

The Camels were cute. The buggies are now slithering in with no capital improvements. The next Zone 12 Comprehensive Plan update will probably bring a request for rezone to Commercial, based on a few years of commercial use history. What a beautiful way to collect rent on a sand pile with minimum outlay. Meanwhile the F-2 sandpile rapidly grows into a C-1 bonanza. Welcome to California!!

The residents of Westlake and Highway 101 will be most adversely effected by this proposal. Though they have no representation on the City Council I hope some consideration will be given to their desires above those of out of town commercial interests.

Max 100 10-10-22-20 500  
John S. Carlson  
P.O. Box 126  
Westlake, Oregon 97493

Phone: 997-3102

February 11, 1986

Lane County Land Management Div.  
125 E. 8th Avenue  
Eugene, Oregon 97401

RE: Anderson Permit  
ATV Rentals P.A. 794-85

How Ironical!! My very good neighbor to the south, Dr. Anderson is in need to promote Dune Buggy rentals. This is exactly opposite to the aims of our group "Residents for Preservation of Dune Quality". Dr. Anderson is the director of this organization. What happened?

They claim they will maintain "No Trespassing" signs along the private property lines. These will be no more effective than those installed a year ago by the N.R.A. on my west property line. The claim that I will benefit from having these noise machines next to me is absurd.

I have put up with constant harrassment by these ATV's over the last 5 years. All summer long and many winter weekends they are across my lines constantly irritating me and my customers. This permit will allow many more of them to start out right next to me.

I was all in favor of the nice quiet camel rides but when they got motors in them I object. There was hardly room for parking with the camel rides. Now there will be many more cars. Will they be parking on the highway by my sign blocking it out even more than now?

The unending threat of the dune buggies and the discrimination against me by Dunes City have taken their toll. I have now been driven to the edge of selling out. If this permit is granted it may be the straw that breaks this camels back.

Sincerely,

Martha Jakob  
83520 Highway 101 S.  
Florence, Oregon 97439  
Phone: 997-2851

(Tax Lot 19-12-22-30 500)



83546 Woodland Lane  
Florence, OR 97439  
February 13, 1986

Dunes City Council  
Dunes City, OR 97439

Honorable Council Members:

We strongly object to the application by Dr. Richard Anderson to change the use of commercial property on Highway 101 at the southwest corner of Woahink Lake, by adding an ATV rental operation.

The ever-increasing ATV ecological impact is of general concern, but our objections to this specific site are twofold.

1. The safety of traffic movements must be questionable, as conflicts with fast-moving coastal traffic on this 2-lane State highway are certain to occur from turning, parking, or impaired sight distance.
2. The noise pollution from the dune ridges is bad and getting worse, particularly on weekends and in the summer months; also, without a curfew, the noise continues late into the night hours. There appears to be little awareness of the fact that Woahink Lake is a perfect conveyor of sound and the noise from the proposed usage will reach an extensive area of residential property along the lake's east shore.

Unfortunately, a personal appearance at the Thursday hearing is not possible, but we hope this communication will result in a study of the above issues, and an environmental impact statement be required for this and similar requests. Therefore, we request that this request for a zoning use change be denied at this time.

Respectfully yours,

*Donald C. Tillman, Sr.*  
Donald C. Tillman, Sr.,

*Loris L. Tillman*  
Loris L. Tillman

- F. Applications for City Council and Planning Commission Vacancies. The City had received one (1) application each for the vacancies on the city council and the planning commission. The city council decided to wait until March to consider filling the vacancies to give more people time to apply. The City will continue to advertise the vacancies.

VIII. CITIZEN INPUT ON UNSCHEDULED ITEMS

- A. Coastal Bass Classic. Mr. Jim Flatley representing the Northwest Bass Club announced that the club will be sponsoring the Bass Classic again. It will be a split lake tournament as it has been in the past. It is scheduled for March 15 and 16. The proceeds will go toward the Miller Park fund and crowns for the Rhody princesses.
- B. Siltcoos Heights Water System. Mr. John Carlson registered an objection. He felt the City was too casual in agreeing to intercede with the Boundary Commission to lift the moratorium on water systems. He said the C.C.I. committee recently endorsed a resolution of cooperating with the City of Florence in continued studies of Woahink Lake and the mid-basin water system, a coastwide system, which implies, to Mr. Carlson, that the City is opting for a water system sooner or later.


IX. ADJOURNMENT

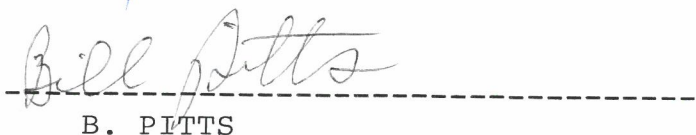
The meeting was adjourned at 9:30 p.m.

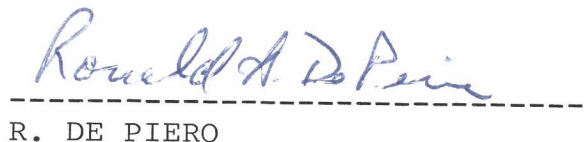
  
MAYOR JAMES BAUMEISTER

  
SECRETARY K. BACON

  
D. EASTMAN

  
N. JOHNSON

  
B. PITTS

  
R. DE PIERO

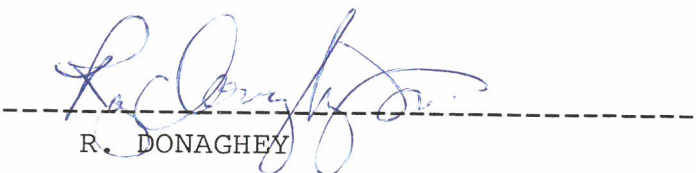
  
R. DONAGHEY

EXHIBIT A

February 24, 1986

Committee Recommendations for Garbage Franchise Assumption Document include the following;

1. A letter from the current Franchise holder requesting transfer, stating name and address of the proposed transferee,
2. Certificate of Insurance naming Dunes City as additional insured in a minimum amount of 100,000/300,000 liability and 50,000 property,
3. List and type of collection equipment and facilities to meet standards established by the city,
4. Any proposed sub-contractors,
5. Location of business site,
6. Include re-cycle materials pick up,
7. Financial stability required. Can be in the form of a balance sheet of years 1984-1985 or a performance bond.
8. Buyer agree to continue service of equal or better quality.

  
William H. Pitts, CHAIRMAN

DUNES CITY COUNCIL

MARCH 13, 1986  
REGULAR MEETING

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 7:32 p.m. by Mayor Jim Baumeister.

PRESENT: D. Eastman, B. Pitts, N. Johnson, Mayor Baumeister, R. DePiero, Attorney Ron Gerber, City Recorder B. Stocking and secretary K. Bacon. R. Donaghey was excused. There was one vacancy on the council. There were approximately 60 people in the audience and three representatives of the press.

II. APPROVAL OF MINUTES OF FEBRUARY 13, 1986

The minutes of the February 13, 1986, meeting were approved as submitted.

III. BILLS AGAINST THE CITY

ACTION

A motion was made by B. Pitts and seconded by N. Johnson to approve the bills against the City in the amount of \$2,966.01. Motion carried.

IV. RECEIPTS OF THE SESSION - \$4,993.71

V. ANNOUNCEMENTS AND CORRESPONDENCE

A. It was announced that the one application the City had received for the City Council vacancy had been withdrawn because the applicant had gone to work full-time and no longer felt that she would be able to do a good job as a council member.

B. B. Stocking briefed the council on the following items of correspondence that had come into the City since the last meeting:

1. A letter concerning the Expo 86 Friendship Relay. Jim Archer was in the audience and explained that runners will be running with a baton from Florence to Waldport. The baton will contain a message from the City. Dunes City was invited to participate by providing a message for a baton which would be carried from Westlake to Florence to connect with the Florence relay team. The council did not take action.

2. Letter from the League of Oregon Cities regarding regional conference.
3. Letter from Mayor Baumeister to Ron Hjort regarding the cleanup of dock facilities on Siltcoos Lake.
4. Letter from Martha Jakob withdrawing her permission for Richard Anderson to place a sign on her property.
5. Letter from the Governor requesting names for possible appointment to the Boundary Commission.

VI. REPORTS

- A. Planning Commission Appointment. The council had in its packets copies of the applications the City had received for appointment to the Planning Commission. The Planning Commission had considered the two applications that the City had received prior to their February meeting. They had made a recommendation, based on those applications, to appoint Mr. Elmore J. Petersen to the Planning Commission. The council also had copies of an application that came in after the Planning Commission meeting.

ACTION

A motion was made by N. Johnson and seconded by B. Pitts to accept the Planning Commission's recommendation and appoint Mr. Elmore Petersen to the Planning Commission. Motion carried. Mr. Petersen will fill Tom Hunt's vacated seat. His term will expire December 31, 1986.

- B. Police. The council had been given copies of the Sheriff's patrol hours within the City for the past month. There was little comment except that the county had put in an additional unpaid 20 hours to begin repaying the hours for which the City was charged.

- C. Roads. D. Eastman asked the Road Chairman, Keith Watson, about what it would take to repair the corner of Buckskin Bob. He asked if maybe some concrete would help to hold the corner. He offered to work with Keith on trying to repair the road with cement.

VII. PUBLIC HEARINGS

- A. Siuslaw Sanitary - Refuse Collection Transfer. Mr. Bill Pitts was chairman of the committee the mayor had appointed at the February council meeting to study the transfer proposal. Mr. Pitts had submitted the following recommended conditions for transfer of the franchise:

1. A letter from the current franchise holder requesting transfer, stating name and address of the proposed transferee.
2. Certificate of Insurance naming Dunes City as additional insured in a minimum amount of 100,000/300,000 liability and 50,000 property.
3. List and type of collection equipment and facilities to meet standards established by the City.
4. Any proposed sub-contractors.
5. Location of business site.
6. Include recycle materials pick up.
7. Financial stability required. Can be in the form of a balance sheet of years 1984-85 or a performance bond.
8. Buyer agrees to continue service of equal or better quality.

The mayor announced that the buyer, Siuslaw Disposal, Inc., had met all the conditions except the Certificate of Insurance. B. Pitts said that he had talked with Bob Read who had told Mr. Pitts that Read Insurance plans to insure the new company effective the date of transfer. He had told Mr. Pitts that he would have the Certificate of Insurance to the City by this meeting. However, it had not yet been received.

ACTION

A motion was made by N. Johnson and seconded by B. Pitts to accept Resolution 3-13-86 "A Resolution Transferring the Garbage Franchise from Siuslaw Sanitary to Siuslaw Disposal, Inc." Motion carried. The resolution will become effective when the City receives the Certificate of Insurance, and the above conditions will be filed with the Resolution 3-13-86 as Exhibit A.

Mr. Mike Johnson was in the audience and introduced the Fenders who are the owners of Siuslaw Disposal, Inc.



- B. Oath of Office. B. Stocking administered the Oath of Office to Mr. Elmore J. Petersen, the newly-appointed member of the Planning Commission.
- C. Zoning Change for applicant Michael Buckwald. The public hearing was opened at 8 p.m. Mayor Baumeister announced that anyone who wanted to speak on the zoning change would be allowed 4 minutes, and they would be able to relinquish their time to a spokesman if they desired. Several people relinquished their time to either Russ Heggen or Mike Buckwald. Seven people gave their time to Buckwald and nine to Heggen.

Mike Buckwald: said that he, Larry Hague and Terry Duman had purchased an 8-acre parcel of land on the west side of Highway 101 south of the Sand Dunes Frontier in November, 1985. He was requesting support from the city council for the zone change and his proposed project. They were requesting a zone change from rural residential to commercial.

If they obtain the zone change, they will apply for a special use permit for the 18 acres directly south of the 8-acre parcel. The 18 acres are currently zoned F2. If everything is approved, they will provide a dunes access road for ORV use and campers on the site, as well as a hiking trail. They would have rentals available to campers and other tourists. The road will be limited to day use during the daylight hours from 7 a.m. to 9 p.m. They will ask the Forest Service for a permit for a curfew if it takes that to restrict people to day use only.

Buckwald said that they wanted to reduce additional noise. He and his partners are considering buying decibel-monitoring equipment to test vehicles going out onto the dunes from his campground. They plan to locate all the noise-producing activities to the back of the property as far from the highway as possible.

They do not plan to "strip" the property. They plan to leave the natural vegetation and plant more where it is sparse, Buckwald said. He compared their proposed campground to the facilities at Honeymoon Park. They anticipate that they will have 50 - 120 camping spaces. He said there is plenty of water on the property, and the county does not anticipate any problems with getting septic on the property. They will provide full shower facilities for the campground.

Buckwald said that the Forest Service says there is a need to relieve congestion along South Jetty. They plan to have

family-oriented activities such as the following: a campground, go-cart track, haunted house (compared to the one at Enchanted Forest south of Salem), bobsled track, picnic tables and barbecue pit with playground, hiking trail with signs pointing out vegetation and local history, building for storage and repair shop, office for sales and rentals with slides and videos on various attractions in the surrounding area. He estimated there would be 12 to 15 employees when fully operational. He had heard concern about the highway hazard. Buckwald said that in his talk with the State Highway Department they had said there is no problem. However, they are willing to put in a turn lane "if the State absolutely requires it".

Mr. John Carlson: talked about how the development related to the Dunes City Comprehensive Plan. He said that since the City was created in 1962 three parcels have been changed from commercial to residential zoning. No parcel has ever been changed from residential to commercial. He presented the council with a petition with several names requesting that the zoning request be denied.

Mr. Russ Heggen: representing the Woahink-Siltcoos Homeowners Association made a presentation to the council. He had a chart showing a diagram of the proposed zone change and development in relation to the lake, dunes, and surrounding residences. He said that within a half mile of the property there are 61 residences with an estimated value of "over \$6 million". He said the Association is against spot zoning of commercial property, major dune buggy park in a residential area, more commercial zoning where it is not needed, and strip developments. The Association is for controlled growth, maintaining existing recreation areas, highway safety, properly located rv/orv facilities. They do not feel this is the location.

John Fletcher: thinks tourism is the main economy for this area. Further thinks that we are losing tourists to other areas for lack of facilities here.

Rush Chapman: thinks that if there are too many types of facilities along the highway, none of them are going to be able to survive or expand and enlarge. He thinks we do not need more facilities.

Dunes City Council  
March 13, 1986

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James Workman: would like to see this facility developed so that the RV's who park at the South Jetty now illegally and crowd the parking facilities will have some place to go. He said the Forest Service cannot enforce the parking restrictions against camping at the South Jetty because the people there have no place else to go.

Marilyn Miller: is against strip development and the effect on adjacent residential property. She thinks that people who buy residential property in a residential zone have a right to expect that it will remain zoned residential.

Laverna Herbert: said land use planning is to prevent haphazard development of commercial and residential property. At one time there were two dune rental facilities along the highway. Now there is only one "because when the second came on the market, no one saw a need to purchase it; and it reverted to the Forest Service." There are camping facilities at Tahkenitch, Carter Lake, Siltcoos outlet and Honeyman Park. "How often are there 'no vacancy' signs?, she asked. The Forest Service has already built a dunes observation deck (Mr. Buckwald had indicated that an observation deck would be included in their plans). She thinks we should not destroy the things that attract tourists and residents to the area.

Mayor Baumeister took a count of Dunes City residents who were for and against the development. There were three Dunes City residents for and 23 against the zone change. There were several people in the audience who came for the hearing but were not Dunes City residents.

The public hearing was closed at 8:55 p.m.

Mr. Delbert Phelps from the Concerned Citizens of Western Lane County said that they had come just to gain information.

The mayor declared a recess at 9 p.m. and reconvened the meeting at 9:05 p.m.

B. Pitts said that in checking through the written information the City had received (letters and petitions) that it appeared there were 100 people against and 19 for the zone change. The audience participation seemed to indicate there were 3 for and 23 against. He said the majority was obviously against the zone change and development.

Dunes City Council  
March 13, 1986

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Each council member expressed his/her opinion about the proposal. Although there were a few council members who were personally in favor of the development, they felt that if they were to represent the majority of the people that they must vote against the zone change.

Attorney Gerber suggested that a letter be sent to the West Lane Planning Commission with the council's opinion and cite page 90 of the Comprehensive Plan and how it relates to the development with emphasis on Item #3 of page 90. The City will send a copy of these minutes, a letter from the mayor, copies of the letters and petitions the City had received. An additional copy will be sent to the Lane County Commissioners.

It was announced that the West Lane Planning Commission will conduct the hearing on the zone change Wednesday, March 19, at 7:30 p.m.

VIII. UNFINISHED BUSINESS

- A. Training Session. Attorney Gerber summarized his proposal to provide a training session for the city council members on open meeting laws, etc. The council was in favor of having the session and wanted to include the Planning Commission members. Attorney Gerber thought it would take about an hour. The meeting was scheduled for Monday, March 24, at 7:30 p.m. at the Dunes City Community Center.
- B. Martha Jakob's Letter. D. Eastman asked about Dr. Anderson's signs now that Martha Jakob has withdrawn permission for the sign. Eastman was told that Anderson was told he would have to bring in drawings and plans for location before they are in place. The change can be handled then.

IX. CITIZEN INPUT ON UNSCHEDULED ITEMS

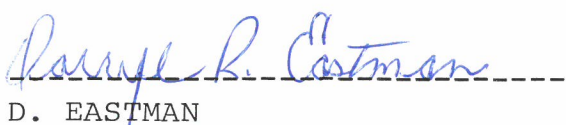
There was no citizen input on unscheduled items.

X. ADJOURNMENT

The meeting was adjourned at 9:25 p.m.

  
MAYOR JAMES BAUMEISTER

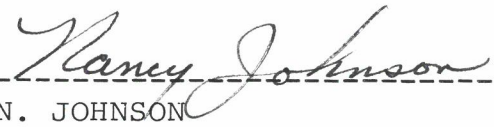
  
SECRETARY K. BACON

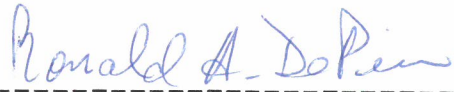
  
D. EASTMAN

  
B. PITTS

Dunes City Council  
March 13, 1986

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N. JOHNSON

  
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R. DE PIERO



CITY COUNCIL AND PLANNING COMMISSION  
TRAINING SESSION  
with  
ATTORNEY RON GERBER  
March 24, 1986

Attorney Ron Gerber presented the group with photocopies of Oregon statutes or a list of the statute numbers relating to the following:

- Organization and Government of Cities
- City Boundary Changes; Mergers; Consolidations; Withdrawals
- City Improvements and Works Generally
- City Sewers and Sanitation
- Municipal Utilities
- City Parks, Memorials and Cemeteries
- City Planning and Zoning
- Public and Private Records
- Open Public Meetings
- Executive Sessions
- Government Ethics

Gerber gave an overview of where the City's power comes from, what power the City has adopted and how it implements that power and some special problems that elected officials have to deal with.

The power of the City resides in the City's Charter.

That power comes from the statutes (Oregon Statutes 221 to 227) enacted by the State of Oregon and its Home Rule Provisions.

The City implements its authority through its ordinances.

There is the Open Records Law which basically says the public may see whatever it wants with certain limited exceptions.

There is the Open Meeting Law which says you have to meet in public. If you meet in private, there are severe penalties.

You may hold executive sessions with certain exceptions. The press is allowed to sit in the executive session but can't report on it. Press may be barred from executive session on labor negotiations.

Must make certain financial filings if you make more than \$500 as required by the Ethics Law.

Covered the definitions of conflict -- potential conflict and actual conflict of interest.

ORS Chapter 221 states how the City will operate. LCDC and the Boundary Commission govern incorporating a city since they oversee land use and boundaries.

Adverse Possession -- A city has the right to continue a use if it has continued for ten years or more. This is a right given to a city that is not granted to a private citizen; i.e., a city may have adverse possession, but a citizen cannot claim adverse possession against a city. An example would be a street paved on private property rather than in the dedicated right-of-way.

If the State legislates comprehensively in an area, a city cannot be more restrictive in legislating rules for the same area.

The City has the power to do condemnation proceedings for city improvements -- city streets, parks, etc. It also has the power to do condemnation for economic improvement districts. Since the City does not have any commercial property within the City other than at Westlake, it probably will not be doing any economic improvement district, according to Gerber.

L.I.D. = Local Improvement District. Property owners who want to have their street paved petition the City. If the City agrees, it authorizes the issuance of bonds. Bonds are sold and the proceeds are used to pay for the roadway, and the City assesses each piece of benefitting property for its proportionate share.

Chapter 223 discusses how to assess property, etc.

The City has the power to give General Obligation Bonds. The City borrows money from a bank and uses estimated revenue for collateral. The City gives bonds, the bank sells the bonds, and the City pays the loans back with interest and uses the money for City improvements. Gerber recommended that Dunes City should not get into the bonding business because it does not levy taxes nor have sufficient revenue sources to do it.

ORS Chapter 224 is a "nuts and bolts" chapter about how the City goes about creating sewer systems, how you assess them, how you construct them, how you bond for them, and how you charge for sewers.

ORS Chapter 225 tells about public utilities. Dunes City has the right to own a public utility. The chapter listed the types of utilities. Gerber could not imagine what the City would want to get into in this category. However, he said that some day it might be necessary for the City to take over the rural fire protection district. The City would not be obligated to take over a water system, Gerber said in response to a question about assuming a water system if it is abandoned.

ORS Chapter 226 is concerned with City Parks, Memorials and Cemeteries. Dunes City does not have a cemetery. Gerber was interested in this since there is a lot involved in dealing with abandoned cemeteries.

City Council/Planning Commission  
Training Session

Page 3

ORS Chapter 227 is concerned with Planning and Zoning. These are basically the LCDC ordinances. The Comprehensive Plan is the controlling document for the City in making land use decisions. It's authority supercedes the zoning ordinances or other City ordinances if there is a conflict between the two.

There was a discussion of how the Comp Plan is binding upon Lane County, which approved the Dunes City Comprehensive Plan before it went to LCDC. The Land Use Board of Appeals (LUBA) considers appeals for land use decisions. Several LUBA decisions have reversed counties who have allowed decisions within a city's area of influence that were in conflict with that city's comprehensive plan, Gerber said.

Public Records. The public may see any record being kept by the City with certain limited exceptions. A person may request copies, but the City may charge for the copies. The City may exempt records relating to litigation, trade secrets, investigative reports or police reports, records relating to setting fees for franchises, records relating to a pending real estate acquisition, petitions to unionize or de-unionize, library records are confidential, location of archeological sites are confidential, and personnel records are confidential.

Open Public Meeting. A public body must make all decisions in an open meeting. It may not hold a meeting in private or make a final decision in an executive session. The City must notify the press within 24 hours of a meeting unless there is an emergency. A meeting must be held within the City's boundaries. A meeting is a quorum of the elected or appointed officials. If City business is discussed informally by a quorum of members over lunch (for example), it constitutes an illegal meeting. There are severe penalties for violating the open public meeting law. Gerber advised those attending this meeting, that they must not allow people to "lobby" them as City Council or Planning Commission members on a land use decision because it is a quasi judicial situation. Gerber said that the group may do a site review. However, pre-hearing contact such as a site review is allowed; but it must be declared at the beginning of the public hearing on the subject that you have pre-hearing contact.

A question was asked about the ethics of a Concept Assistance hearing before the Planning Commission. Gerber advised that it would be acceptable if the applicant was charged the concept assistance fee and the subject was discussed only in an open public meeting. The Commission should advise the applicant, however, that its advice at this meeting is not binding, and the Commission could reverse itself at the public hearing.

The City must keep written records of the public meetings.

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Training Session - March 24, 1986

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The City may hold an executive session to discuss disciplinary action, hiring, interview, or firing. However, an employee may request that the above be discussed in an open meeting if it concerns that person. The press may attend executive sessions, but they may not report on what is discussed. The press may be excluded from executive sessions regarding labor negotiations.

A person may not smoke in a public meeting.

Elected public officials and those appointed to the Planning Commission must file a financial statement with the Ethics Commission. The Ethics Commission relies on ORS 244.010 Policy as "its guiding beacon", according to Gerber. He distributed material to the group that contained that policy statement. A copy of the printed information is being kept with a copy of these minutes on file in the City Office.

He discussed conflict of interest -- actual conflict and potential conflict of interest. ORS 244.020 gives the definition of potential conflict of interest. You must declare the nature of a potential conflict of interest. If you have an actual conflict of interest, you must disqualify yourself; but you do not need to disclose the nature of an actual conflict. You must disclose your conflict of interest at the beginning of the discussion of the problem. If it is an ongoing problem, you should declare your conflict before each discussion of the matter.

At the conclusion of Gerber's presentation, Bill Pitts pointed out that a State of the City address is a requirement of ORS 221.917; and it hasn't been done during his time on the council. Gerber said that it isn't usually best to do it at the beginning of the year, since the Mayor may be newly-elected at that time. He suggested that it be done as part of the budget hearing.

- end -

DUNES CITY COUNCIL

REGULAR MEETING

APRIL 10,1986

AGENDA

- I. CALL TO ORDER AND ROLL CALL
- II. APPROVAL OF MINUTES OF MARCH 13,1986
- III. BILLS AGAINST THE CITY
- IV. RECEIPTS OF SESSION
- V. ANNOUNCEMENTS AND CORRESPONDENCE
- VI. REPORTS
  - A. PLANNING COMMISSION REAPPOINTMENT
  - B. CITY COUNCIL VACANCY
  - C. ADOPTION OF AMENDMENTS TO COMP PLAN DATE CHANGE TO APRIL 30,1986
  - D. SITE REVIEW REPORT RE: ANDERSON A.T.V.
- VII. EXECUTIVE SESSION a)Litigation,b) Personnel,c)Negotiations
- VIII. PUBLIC HEARINGS
- IX. UNFINISHED BUSINESS
  - A. COMP PLAN UPDATE
  - B. VINCE LA ROCCO BUCKSKIN BOB STREET
  - C. HICKMAN PARTITION CHANGE APPROVAL
- X. NEW BUSINESS
  - A. BOUNDARY COMMISSION -SIUSLAW PARK & RECREATION REQUEST
  - B. REQUEST FOR NRA BUFFER ZONE-JOHN CARLSON
  - C. LIQUOR LICENSE RENEWAL WESTLAKE FISHERMAN'S MARKET
- XI. CITIZEN INPUT ON UNSCHEDULED ITEMS
- XII. ADJOURNMENT



DUNES CITY COUNCIL MEETING

REGULAR MEETING  
APRIL 10, 1986

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 7:30 p.m. by Mayor James Baumeister.

PRESENT: Mayor J. Baumeister, D. Eastman, N. Johnson, B. Pitts, R. Donaghey, Attorney Ron Gerber, City Recorder B. Stocking, and secretary K. Bacon. R. DePiero was absent, and there was still one vacancy on the council. There was one representative of the press and nine citizens present in the audience.

II. APPROVAL OF MINUTES OF MARCH 13, 1986

There were no corrections or additions to the minutes of March 13, 1986; and they were approved as presented.

III. BILLS AGAINST THE CITY

ACTION A motion was made by B. Pitts and seconded by N. Johnson to pay the bills against the City in the amount of \$3,020.93. Motion carried.

IV. RECEIPTS OF THE SESSION - \$6,293.25

V. ANNOUNCEMENTS AND CORRESPONDENCE

B. Stocking reviewed for the council the correspondence the City had received during the past month. She announced that the budget hearings have been scheduled by the City's auditor. The first hearing will be May 7 at 7:30 p.m. The council was informed that council members are members of the budget committee. B. Stocking had also contacted some other Dunes City residents who had agreed to serve on the budget committee.

VI. REPORTS

A. Planning Commission Re-Appointment. B. Knight's term on the Planning Commission had expired the end of December. She had agreed to serve for another term if appointed.

ACTION A motion was made by D. Eastman and seconded by R. Donaghey to reappoint B. Knight to the Planning Commission. Motion carried. The office staff will inform Mrs. Knight of her reappointment. Her term will expire December 31, 1988.

- B. City Council Vacancy. The city council had a copy of the application of Mr. Richard Parent for the council vacancy. The City had also received the application of Mr. Ed Fillman. His application had been received too late to be included in the council packets. Mr. Jack Freeland, a former council member, had indicated his willingness to serve again on the council. Mr. Fillman and Mr. Freeland had been unable to attend the meeting. Mr. Parent was in the audience.

ACTION

A motion was made by R. Donaghey and seconded by D. Eastman to wait until the May City Council meeting to appoint a council person so that all three applicants would have a chance to appear before the council and the council would have time to review their applications. Motion carried.

- C. The Planning Commission will be having a special public hearing on the Comprehensive Plan Update on April 30 at 7:30 p.m.
- D. Site Review for ATV's at Camel Ride Site. B. Stocking had received a copy of the final determination following the site review to test noise levels for ATV's at the camel ride site. She reported that Lane County did not feel the noise level was objectionable. However, it denied the request to add ATV's to the site because of highway safety. She informed the group that if someone wanted to appeal the decision, there is a \$195 fee and a deadline that was listed in the report from Lane County.

VII. UNFINISHED BUSINESS

- A. Comprehensive Plan Update. The Planning Commission had discussed the proposed comprehensive plan amendments with Gary Darnielle and Cindi Butler from LCOG at its March Planning Commission meeting. There had been some changes suggested by the Planning Commission. Those changes are listed in the minutes of the meeting. However, C. Butler said that when the update is presented to the City Council for approval, it will make note of the suggestions from the Planning Commission and the C.C.I. committee so that the City Council will have them for consideration in making its final decision.
- B. Buckskin Bob. Mr. Vince LaRocco had appealed to the City for help in resolving the problem of Buckskin Bob which is paved over part of his property. He said the road has been paved 10 feet onto his property the entire 200 foot length of his property. Attorney Gerber recapped for the group the situation of the road based upon the past work done on the road and the information the City Recorder was able to find on the road in the council minutes and the files.

Attorney Gerber advised that among the things to consider about the road are: whether the road has always been as wide as it is now, if it has been that width and on Mr. LaRocco's property longer than 10 years, whether the road was widened and encroached onto Mr. LaRocco's property when it was paved or whether the road was paved over the top of gravel which was already in its present location. There is nothing conclusive in the paving records of the City or in the minutes.

Mr. John Carlson, representing Mrs. Marie Oehler (a former owner), brought word from her that she was aware for years that Buckskin Bob was trespassing onto the property and was not properly in the right-of-way. The road was paved in 1979, and it is unknown whether it was widened when it was paved.

Mr. LaRocco would like to sell his property but feels his deed misrepresents the property since it credits him with more land than he actually has because of the road. He would like the City to either remove the road or buy the land from him. He could then give the City clear title to the ten feet of property. He offered to sell the land to the City for \$2,000 which would be \$1 a square foot. The mayor asked Mr. LaRocco if he knew the road was on his property when he purchased it. Mr. LaRocco said that he did not.

N. Johnson stated the council would have to be very careful about making a decision to purchase the property and setting a precedent. R. Donaghey said he thought before the City paid Mr. LaRocco it should survey all the roads and determine if roads are encroaching onto other property and reimburse everyone who has a road encroaching onto his/her property.

Attorney Gerber advised that it is his opinion that there is no question that the road is trespassing onto Mr. LaRocco's property. He suggested that someone be appointed to talk to former and present residents on Buckskin Bob to determine how long the road has been its present width and prepare a written report for the council. He further advised that if the road was widened when it was paved, the City would only have to give back the portion of land that was taken in the widening.

The mayor appointed R. Donaghey and D. Eastman to interview the neighbors on Buckskin Bob and to measure the width of the blacktop from Parkway down to the corner of Mr. LaRocco's property.

- C. Hickman Minor Partitions. Mr. Tom Nicholson was present representing Mr. Doug Hickman. The council members had in their packets a copy of a letter from Mr. Nicholson and copies of the final maps of the two northern minor partitions. Mr. Nicholson was presenting them to be signed by the mayor and planning commission chairman. Mr. Hickman had abandoned the idea of partitioning the southernmost lot (Tax Lot 800) because it was determined there would be insufficient level ground for two building sites once a cul-de-sac had been installed at the end of Maple Street as per council condition.

The mayor had asked that the matter be discussed before the council before he signed the final partition map.

There was considerable discussion. Attorney Gerber advised the council that if it had approved the three partitions as a package and felt that it harmed the entire partition to withdraw the cul-de-sac, it had the right to request that Mr. Hickman reapply for the minor partition. However, if the cul-de-sac was only for the development of Tax Lot 800, and Mr. Hickman no longer plans to develop it; then the partition could stand as is. The city council agreed that the condition for the cul-de-sac was for the development of Tax Lot 800 into two lots and building sites. They agreed that the minor partition on the northern two lots could stand. However, Mr. Hickman will have to complete the cul-de-sac if he decides at some future date to develop Tax Lot 800.

- D. Liquor License Renewal for Westlake Fisherman's Market.

ACTION

A motion was made by D. Eastman and seconded by N. Johnson to approve the liquor license renewal for Westlake Fisherman's Market. There were no objections from the audience and the City had received no complaints concerning the property. Motion carried.

- E. Assumption Agreement. Attorney Gerber advised that since the City had approved the franchise transfer from Siuslaw Sanitary to Siuslaw Disposal, Inc., it was necessary for the new franchise holder to sign an Assumption Agreement stating that the new owner(s) would honor the obligations agreed to between the City and the former franchise holder. Attorney Gerber had prepared the Assumption Agreement for the council to sign.

ACTION

A motion was made by B. Pitts and seconded by N. Johnson to approve the Assumption Agreement and have it signed by the new owners, Siuslaw Disposal, Inc. Motion carried.

- F. Boundary Commission. The council discussed the request received last month from the Siuslaw Parks and Recreation Committee asking if those interested governments in western Lane County would join in petitioning the legislature to withdraw from the Lane County Boundary Commission jurisdiction. There will be a meeting June 2 at 7 p.m. in the conference room of Florence City Hall. It was requested that Dunes City send a representative to that meeting if it is interested in supporting the effort. N. Johnson offered to attend as the Dunes City representative. She will report to the city council following the meeting.

VIII. NEW BUSINESS

- A. Buffer Zone. The council members had in their packets a letter from Mr. John Carlson requesting that the City contact the Dunes N.R.A. about establishing a "no vehicle" buffer zone along the Dunes N.R.A. boundary with Dunes City. He also suggested that Lane County commissioners be invited to participate.

D. Eastman said that it would be difficult to keep the property posted because of dune movement.

N. Johnson said that she thought it would be worth a try to establish such a zone, but she did not think it would work since it would be difficult to enforce.

During the discussion, J. Carlson suggested that the City negotiate with the Dunes N.R.A. about making a joint City/N.R.A. park and day use area on the site of the former Timber Dunes Park. He said there is an existing septic system on the property, and the train tracks have a gradual gradient that would make a good hiking trail.

The consensus of the council was that it would be a good idea.

N. Johnson will talk to the N.R.A. at the headquarters in Reedsport about both a buffer zone and possible park.

VI. REPORTS - Continued

- E. Police Report. D. Eastman reported on a dog complaint the City had received. He said that at present there seems to be nothing the City can do about such complaints.



The sheriff's deputy can only act on a dog complaint if the dog is bothering livestock. The City has no regulations concerning dogs. A leash law and dog licensing were discussed. The consensus of the council was that the City would be able to handle dog complaints through the City's abatement procedure if the nuisance abatement ordinance was changed to include dogs as a possible nuisance.

Attorney Gerber will contact the group at the University of Oregon which is working on the ordinance compilation to see if it could rework the nuisance abatement ordinance as well as the zoning ordinance concerning the fees for Conditional Use Permit to have chickens, etc., within the City.

VIII. NEW BUSINESS - Continued

- B. Letter from Oregon Traffic Safety Commission. D. Eastman talked about a letter he had received from the Oregon Traffic Safety Commission advising the City that grants are available in the areas of Safety Engineering, Traffic Safety Data, and Traffic Support. The commission invited the City to write a proposal for competition for the funds.

IX. CITIZEN INPUT ON UNSCHEDULED ITEMS

- A. Sign at Pacific and Highway 101. Mr. Jim Fish was present to request city council permission to repaint the detachable segment of the sign at the corner of Pacific and Highway 101 that reads "PUB". At the time that portion was painted, there was a tavern in the Westlake area. Since it burned and the new post office has been built on the former site of the tavern, he would like to have the artist of the original sign paint out the word "PUB" and replace it with the word "MOTELS". N. Johnson said the repainting should be included in the original contract with the artist, Mr. Stewart Henderson. Mr. Fish said that if it wasn't, he would pay for it himself. The city council had no objection to Mr. Fish having the portion repainted in the word "MOTELS" as long as it matches the original sign in colors and design.

N. Johnson also advised the group that Darlings Resort has repainted its signs at the intersection of Clear Lake Road and Highway 101 in earth tones. However, the back of the sign was painted bright blue which is not in accordance with Dunes City regulations. B. Stocking will write a letter to the owners advising them of the sign ordinance and asking that the bright blue side be repainted in earth tones.

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April 10, 1986

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X. ADJOURNMENT

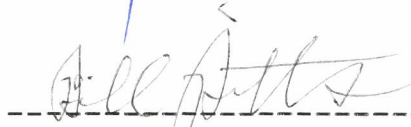
The meeting was adjourned at 9:20 p.m.

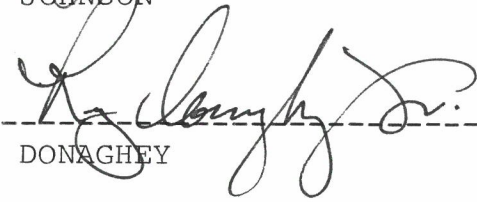
  
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MAYOR J. BAUMEISTER

  
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SECRETARY K. BACON

  
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D. EASTMAN

  
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N. JOHNSON

  
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B. PITTS

  
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R. DONAGHEY

subsequent ones, will be sent to the appropriate State Highway offices for information and review.)

b. NOISE:

Staff has provided a two-page analysis of the noise problems that might be associated with the proposed project, based on the data submitted by the applicant. This included two on-site sound studies, one by a firm hired by the applicant, and one by the State DEQ. Staff correctly discusses the very subjective nature of noise, and provides good insight into the difficulties of defining the problem.

Staff states that the maximum allowable noise level OF ANY DURATION (emphasis added) is 60 dBa from 7 a.m. to 10 p.m., and 55 dBa at all other time. The term "of any duration" may need additional definition, if it is to be enforceable. The OAR standards use an L-1 value as a standard, which is a 1% threshold. The term "any" could be a milli-second of spike noise, and is probably not a realistic value. This important point should be clarified, if it is to be enforced.

The on-site sound study by Robert Bowser (of A.E. Associates) provided some data on dune buggy noise, but its applicability to the problem at hand is questionable. In the first paragraph of the report, he mentions taking "measurements of vehicles and groups of vehicles under wide-open throttle conditions at about 600 feet away, to establish a 'baseline' for ORVs without trees or vegetation acting as a noise buffer." However, this information was NOT included in the subject report. To alleviate this problem, we have conducted similar tests, and have included the results in this paper.

Our tests may not be as scientific as Mr. Bowser's (if they were available), but we believe they are more than adequate for the purpose of this paper. We recorded seven minutes of dune buggy noise at South Jetty, from the back of the parking lot area, on Saturday evening, March 27, 1987, at approximately 7 p.m. There were six small three-wheelers and two rail-type dune buggies there at the time, and their drivers were unaware that we were recording. The recordings were measured by a portable sound level meter, set to the "C" slope (500 to 10,000 cycles) and to the "slow" mode (averaged). The alternate "A" slope (50 to 20,000 cycles) and the "fast" mode (instantaneous) settings would have produced even higher readings.

The recordings showed a background noise level of idling machines, at distances varying from 20 to 50 feet, of about 75 to 78 dBa, which compares very closely to the figures in Mr. Bowser's report. (Paragraph 4 of Results.) We charted the seven

minutes of recorded noise on a time vs. dBa level chart, using manual techniques. (Crude, but realistic.) The charts are enclosed in this report. The nine sheets of paper have been taped together to give a continuous visual readout of the seven minutes, at the scale of five seconds of time equal to one inch horizontal chart space. (Tape recorder counter values are also provided, to allow easier review of the data.) This provides about an eight-foot-long chart, with relatively high resolution. The dBa scale is marked off in units of five dBa, and ranges from a baseline of 70 dBa to a maximum of 100 dBa.

The actual tape recording from which this chart was made will be made available to the Hearings Officer at the May 27th Public Hearing, along with the tape recorder used to make the recording and the acoustic sound meter used to make the measurements. They may be kept for analysis purposes as long as is required by the Hearings Officer.

If comparison is made of the chart levels with the actual recording, it is easy to see the correlation of the different sounds and the dBa levels involved. The small three-wheelers usually register 82 to 84 dBa during runs up South Jetty Hill, with the average runs lasting approximately five or six seconds. (Manual stopwatch checks of top-of-the-hill climb times averaged approximately six to eight seconds at South Jetty Hill.) Quick revving of nearby engines also produced sound levels in the 80- to 85-dBa range. The large rail-type buggies generated considerably more noise, especially during the hill climbs. Those readings usually exceeded 85 dBa, and sometimes exceeded 90 dBa.

This recording and the charts are meant to provide a relatively realistic basis for evaluating the ACTUAL sounds that will be heard near the proposed project. The hillside at South Jetty is representative of the access road hill at the proposed site. The time to climb the hill is approximately the same as specified in Mr. Bowser's report (he states six to ten seconds at full throttle in his conclusions), and the idling noise levels of the buggies is the same as in his report. The height of South Jetty Hill is not known (at this time), nor is the height of the access hill at the proposed site, due to lack of topographic information. However, if the six- to ten-second time frame specified in Mr. Bowser's report is correct, and his assumption of a full-throttle climb for that time period is correct, then it follows that this recording would closely duplicate the sound levels at the proposed site.

The subject recording was made approximately 400 feet from the actual base of the hill at South Jetty. This is almost exactly the same distance as shown on the applicant's site plan (see copy attached) from the base of the access road hill to a