

DUNES CITY COUNCIL

REGULAR MEETING  
September 11, 1986

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 7:30 PM by Mayor J. Baumeister.

**PRESENT:** Mayor Baumeister, E. Fillman, newly-appointed councilman Robert Petersdorf, N. Johnson, D. Eastman, R. Donaghey, Attorney R. Gerber, City Recorder B. Stocking and secretary K. Bacon. There were 16 citizens present and no representatives of the press.

**ABSENT:** R. De Piero.

II. ADMINISTERING OATH OF OFFICE

B. Stocking administered the Oath of Office to Mr. Petersdorf who was then seated at the council table.

III. BILLS AGAINST THE CITY

The attorney pointed out a correction in his monthly billing. What was thought to be an error was later discovered to be correct. With the addition of the bill for the sheriff's contract which was added after the bills were printed, the total was \$2,497.87.

**ACTION** A motion was made by D. Eastman and seconded by N. Johnson to pay the bills against the City in the amount of \$2,497.87. The voting was unanimous and the motion carried.

IV. RECEIPTS OF THE SESSION - \$4,136.61

V. APPROVAL OF MINUTES OF AUGUST 14, 1986

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to approve the minutes of the August 14, 1986, meeting. Motion carried.

VI. ANNOUNCEMENTS AND CORRESPONDENCE

B. Stocking reviewed the correspondence that the City had received.

The City had received a copy of a letter the Reedsport mayor, Ronald Hanson, had written to the executive director of the League of Oregon Cities requesting that the League coordinate the filing of a "Friend of the Court" brief on behalf of all cities in the state that are served by public utility districts. Attorney Gerber advised that the

attorney for the City of Florence has drafted an Agreement that would allow Central Lincoln P.U.D. to use the City's right-of-way and the amount charged is equivalent to the franchise fees. The other cities are waiting to see what happens with this.

## VII. REPORTS

- A. **November Election.** B. Stocking read the names of those from Dunes City who will be on the ballot for the November election. They are: Nancy Johnson for mayor; and Robert Forrest, Ed Fillman, Richard Parent, Robert Petersdorf, and Ron DePiero for council positions. However, there are six vacancies and five applicants. The three who receive the highest number of votes will receive the four-year terms, and the three who receive the lowest number of votes will be given the three-year terms.
- B. **Resignation.** The City had received the letter of resignation of Planning Commission Chairman Phil Nichols. His letter of resignation was read, and his resignation accepted with regret.
- C. **Parks.** N. Johnson said there are two "small" spruce trees in Petersdorf City Park that are in the electrical wires. She wondered if the council would have any objection to having them removed. She said that there is a possibility that the trees could be removed at no charge to the City. She was asked if she had contacted P.U.D. She said that she had not. There was discussion about P.U.D. perhaps trimming the trees out of the electrical wires. N. Johnson advised that they are small spruce and are not a pretty tree. She thinks the park would look much better if the trees were removed. She further advised that there are small hemlock in the park that will someday be much prettier.

## ACTION

A motion was made by R. Donaghey and seconded by E. Fillman to have the trees removed. The voting was unanimous and the motion carried.

N. Johnson said that she would like to utilize the stumps from the trees to make a bench for the park.

D. **Police.** D. Eastman talked about the problems he and B. Stocking have had since implementing the nuisance abatement against dogs. He said that it had just about driven him crazy. He said that things seem to have resolved themselves now.



#### VIII. PUBLIC HEARINGS

- A. **Periodic Review of the Comprehensive Plan.** The mayor opened the public hearing at 7:50 PM and announced that the hearing would be continued until Tuesday, September 16, at 7:30 PM at the Dunes City Hall.
- B. **Conditional Use Permit for Joseph Frugoli.** The mayor opened the public hearing at 7:51 PM on the request of Mr. Frugoli for a Conditional Use Permit to place a mobile home in a residential area. Mr. Frugoli was unable to attend the hearing, and there were no proponents or opponents of the proposal in the audience. The council had the Planning Commission's recommendation, Findings of Fact and Conclusions of Law.

There was a discussion of Shirley Lane which will be the access for the property. It is currently 10 feet wide but will have to be widened to allow for the delivery of the mobile home. After the mobile home is installed, Mr. Frugoli would like to allow Shirley Lane to grow back to the 10 foot width.

The council discussed whether 10 feet would be an adequate width to allow emergency vehicles, especially fire trucks, access to the property. Road Director Keith Watson who is also a volunteer fireman said that the 10 feet would be adequate. He said that the fire department could put a pumper truck at the site in case of a fire and run line down the road to the pumper if necessary.

The public hearing was closed at 8 PM.

#### ACTION

A motion was made by E. Fillman and seconded by N. Johnson to accept the Planning Commission's Findings of Fact and Conclusions of Law and approve the Conditional Use Permit of Mr. Joseph Frugoli to place a mobile home in a residential area with the conditions that:

1. The travel trailer that is currently on the lot not be used as a second residence and that Mr. Frugoli remove it as he has indicated.
2. Shirley Lane be maintained at least ten feet wide to allow for access by emergency vehicles.
3. The mobile home will be set on a concrete foundation all the way around (at ground level) as well as four "runners" made of reinforced steel.

The voting was unanimous, and the motion carried.

**C. Variance for George Reedal.** The public hearing was opened at 8:05 PM. Mr. Reedal was requesting a Variance to build a storage building on a lot he has purchased across the street from his home. The storage building would be built into the setback from Leavitt Road. Mr. Reedal had requested on his original application that he be allowed to build 5 feet from the edge of the road. The Planning Commission had recommended that the request be denied. The commission did not feel the request met the necessary criteria for granting a Variance. Mr. Reedal was appealing to the City Council and had amended his earlier request. He was now requesting to build 10 feet from the edge of the road.

Mr. Reedal gave a board presentation showing on a mylar overlay of his tax lot the trees that would have to be removed to accommodate moving the building back further onto the lot.

The Zoning Ordinance requires that buildings be built 50 feet from the right-of-way.

Mr. Herb Sauter testified that he would have no objection to the building being built 10 feet from the edge of the road.

Mr. John Carlson was neither for nor against the proposal but brought up the ambiguity of determining the road setback. The Zoning Ordinance states that the setback is 50 feet from the right-of-way it also states that it is measured from the centerline. Mr. Carlson pointed out that it can't be measured both from the centerline and the right-of-way. The attorney interpreted the wording of the ordinance to mean that the right-of-way is determined by measuring from the centerline, but he agreed that the wording was ambiguous. Testimony at the meeting indicated that the building inspector is currently measuring the 50 feet from the centerline and allowing buildings to be 50 feet from the centerline.

Mr. Vince Swanson, an adjacent neighbor, testified that 5 or 10 feet from the property line is too close to the road, in his opinion, and would block access to his property.

Mr. Darrell Helmuth had sent a written response in opposition to granting the Variance. He also testified that removing the trees should not be considered a factor because Mr. Reedal has said in the past that he plans to remove the trees anyway. He said that Mr. Reedal had earlier asked the City for permission to remove three trees that were in the City right-of-way that Mr. Reedal said were rotten. In Mr. Helmuth's opinion and that of his wife and son, the trees had not been rotten. There was other testimony at the meeting that the trees had been rotten.

Mr. Helmuth said that there was ample room on the lot to locate the storage building without the variance.

In response to discussion as to whether the storage building could be sold and converted into a small dwelling at some future date, the secretary quoted from an earlier conversation she had had with the building inspector, Emile Mortier. Mr. Mortier had advised that if the Planning Commission had recommended approving the Variance, he would like to have a condition stipulated that Mr. Reedal have a deed restriction recorded on tax lot #2300 that the storage building is accessory to the house on tax lot #900 and submit proof to the City that it is recorded with Lane County to preclude the storage building from being sold separately since it is an accessory building.

The public hearing was closed at 8:35 PM and reopened for rebuttal from Mr. Reedal. Mr. Reedal said that he could have said in the past that he would log the lot because he bought the lot thinking that the price of the potential lumber on the lot would pay for the lot.

The public hearing was closed at 8:37 PM.

Mr. Petersdorf declared that he had visited the site.

There was discussion of altering the Variance to allow the storage building to be built 10 feet from the edge of the road. N. Johnson asked the secretary if, in her opinion, the Planning Commission would have recommended approval if the original Variance request had been for 10 feet rather than 5 feet. The secretary said she could not outguess what the Planning Commission might have done. The City Council was in favor of sending the matter back to the Planning Commission for further consideration of the amended request. However, the

attorney advised the council to make a final determination at this meeting. Then Mr. Reedal could re-apply if he wished to, and the City Council could give him permission to re-apply without paying an additional filing fee.

**ACTION**

A motion was made by D. Eastman and seconded by R. Donaghey to follow the recommendation of the Planning Commission, accepting the commission's Findings of Fact and Conclusions of Law, and deny the request of Mr. George Reedal for a Variance to intrude 30 feet into the right-of-way for Leavitt Road to build a storage building. Mr. Eastman further moved and Mr. Donaghey seconded that Mr. Reedal be allowed to take a modified application back before the Planning Commission without paying additional filing fees.

**AYE:** D. Eastman, N. Johnson, E. Fillman, R. Donaghey

**NAYE:** R. Petersdorf

**Motion carried.**

**IX. UNFINISHED BUSINESS**

- A. Ordinance Compilation.** The council members had been given drafts of the proposed ordinances for their consideration. The ordinances will be advertised for hearing at the next city council meeting. R. Petersdorf suggested that the hunting and trapping ordinance be amended to specify that steel shot rather than lead shot be used within Dunes City to protect the lakes since they are a source of drinking water for the community. There was a discussion of the the problems of administering it and the amount of advance notification that would be necessary to various state agencies. The attorney recommended that the Department of Fish and Game be invited to a future meeting to discuss it.
- B. Jay Mead Minor Partition.** Mr. Eugene Wobbe was present to represent Mr. Mead in presenting the final partition map for approval and signature. He also had brought a street dedication he had drafted. The northwest corner of the partition is currently part of a street but is included in Mr. Mead's legal description as being owned by him. To clarify the issue, Mr. Mead wished to dedicate the northwest corner of the partition to the City to continue being used as a part of the street at the intersection of Hilltop and Spruce Streets.

Mr. Gerber will review the street dedication.

**ACTION** A motion was made by N. Johnson and seconded by E. Fillman to approve the Mead/Treasure Partition subject to legal counsel's acceptance of the road dedication. The voting was unanimous and the motion carried.

**XII. CITIZEN INPUT ON UNSCHEDULED ITEMS**

**A. Bass Club.** Mr. Jim Pearson was present from the Bass Club. He announced that the club would like to donate \$250 to the Parks and Recreation Department of Dunes City to be used on the park area next to the Lane County boat launching ramp in Westlake. There was a discussion of using the money for tables and benches in the park. The mayor asked Mr. Pearson if the club would also be willing to donate some volunteer labor to clear the lot and prepare it for the tables and benches. Mr. Pearson said he was sure the club would be willing to help.

**ACTION** A motion was made by N. Johnson and seconded by R. Donaghey to accept the \$250 donation of the Bass Club to be used in the park adjacent to the county boat launch at Westlake. The voting was unanimous and motion carried.

**B. McCaw Cablevision.** Mr. Bob Merz was in the audience to discuss with the council complaints he had heard from others and felt himself about McCaw Cablevision and the changes in service and rate increases recently enacted by the company. He said several people had talked about wanting to install their own cable company. He was advised that Dunes City does not have an exclusive franchise with McCaw. However, the attorney said that cable companies generally have a "gentlemen's agreement" not to intrude into each other's areas. He said that the City is powerless to do anything about the cable increase due to federal legislation that deregulated the cable companies and allows them to charge "whatever the public will bear".

The attorney advised the council (as a group) not to make a statement to the press in opposition to the cable company since it may be construed as interference with a contractual agreement.

**C. League of Oregon Cities Meeting.** The League of Oregon Cities will be holding its annual training session at the Eugene Hilton Saturday, November 8, to Tuesday, November 11. The attorney recommended that new people

on the council be encouraged to attend. The city recorder responded that the City has usually paid the registration fee and mileage for those who attend. The City Council agreed to pay N. Johnson's fees to attend since she is the only mayor candidate, and she will decide with B. Stocking what days she will attend.

**D. Commercial Road Use.** After council discussion, it was decided that the attorney will draft an ordinance controlling heavy industrial use of City streets for consideration at the October city council meeting.

**E. Paving Russell Road.** Director of Roads Keith Watson asked permission of the council to request bids to pave Russell Road. He had prepared two paving proposals.

**ACTION**

A motion was made by R. Petersdorf and seconded by N. Johnson to request bids to pave Russell Road accepting bids on two proposals to pave Russell Road. The voting was unanimous and the motion carried.

**F. LCOG Appointment.** The resignation of Mr. B. Pitts left the City without a representative at LCOG. The mayor announced that he would like to appoint Mr. R. Petersdorf to represent the City at LCOG. Mr. Petersdorf accepted. B. Stocking will notify LCOG of the appointment.


**G. Solar Access Permit.** The secretary announced that the City had not yet adopted a solar access permit following approval of the solar ordinances. The City recently received a call from a citizen interested in applying for a solar access permit. She had written to LCOG and the Department of Energy asking for samples of solar access permits other cities may have adopted. She was instructed to contact former-councilman Phil Tout and the City of Ashland.

**XIII. ADJOURNMENT**

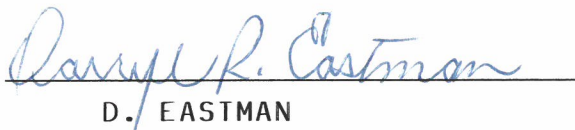
**ACTION**

A motion was made by R. Donaghey and seconded by R. Petersdorf to move the next City Council meeting to October 16 rather than October 9 to avoid hunting season since the attorney and several council members would be gone during that week. The voting was unanimous and the motion carried.

The meeting was adjourned at 10:25 PM.

  
MAYOR J. BAUMEISTER

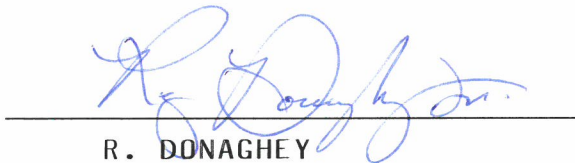
  
SECRETARY K. BACON

  
D. EASTMAN

  
N. JOHNSON

  
E. FILLMAN

  
R. PETERSDORF

  
R. DONAGHEY

## DUNES CITY COUNCIL

### SPECIAL MEETING September 16, 1986

#### **I. CALL TO ORDER AND ROLL CALL**

The meeting was called to order at 7:50 PM by Mayor James Baumeister. The meeting was a special meeting to discuss the Comprehensive Plan and had been called at a time when Mr. Glen Hale, Field Representative for the Department of Land Conservation and Development, could be in attendance.

**PRESENT:** Mayor Baumeister, D. Eastman, N. Johnson, R. Donaghey, R. Petersdorf, City Recorder B. Stocking, Attorney R. Gerber, Mr. Glen Hale, Mr. Gary Darnielle from LCOG, and secretary K. Bacon. There were two citizens in the audience and no representatives of the press.

**ABSENT:** R. DePiero and E. Fillman.

#### **II. COMPREHENSIVE PLAN DISCUSSION**

Gary Darnielle introduced Mr. Hale from LCDC. The City Council had requested the opportunity to discuss the requirement of Goal 17 with him concerning increasing lake access to the public.

Mr. Hale said that the state of Oregon received a federal grant, and the grant required that the state as a condition for receiving the grant do certain activities in the national interest or "betterment". "They made the determination that public access is of national interest", according to Hale. Mr. Hale agreed that Oregon probably already has more public access than any other coastal state on the west coast, but the federal government was not willing to accept that. He said that increasing public access could be accomplished by substantially increasing an existing public access and did not need to be interpreted as a new public access. He further said that it need not be more than one increase in public access to meet Goal 17.

The mayor talked about increased public access perhaps affecting the quality of the water in Woahink Lakes, and he thinks existing accesses are not being adequately utilized.

Mr. Hale said that the increased public access need only be on either Siltcoos Lake or Woahink Lake. Since Siltcoos Lake is designated more for recreational or industrial use by International Paper and Woahink Lake is designated as a water source, it was decided to meet Goal 17 by increasing public access on Siltcoos Lake.



Mr. Hale discussed the proposal to increase public access by requiring developers of subdivisions of 25 lots or more to provide for public access. Hale thought that this may be a hardship to the developer. Hale said that increasing public access may be extending a street to the water or increasing the parking along a block near the water. He gave the example of Reedsport that developed land on either side of a city dock to meet the requirement.

The council discussed the possibility of developing some land the City recently acquired from Lane County near the boat launch in Westlake. Mr. Hale agreed that this would meet Goal 17. At the council meeting the previous week, the City had accepted a \$250 donation from the Coastal Bass Classic to be used to develop that parcel.

Gary Darnielle asked what LCDC would need as language to meet the goal. Mr. Hale said that language should indicate that the City intends to enlarge the recreational use around the Lane County boat launch area at Westlake by developing a park on a parcel the City owns adjacent to the dock and boat launch facilities.

Gary Darnielle said that he will draft something, have Mr. Hale check it and have it ready for council consideration for the October 9 city council meeting.

Everyone was agreeable to this proposal.

R. Petersdorf asked if representatives of LCDC had physically observed these coastal areas before requiring more access be instituted for the public when the present is more than adequate. It was re-stated that increasing public access was a requirement necessary to receive the federal grant.

Gary Darnielle said that he will check to see if Cindi sent in the materials. LCDC requires a 45-day notice period. If that hasn't been done, he will make the changes the council agreed to at this meeting and last month's meeting. He will then send them in, write a letter from the City for the City to sign asking for a time extension, at which time the city council will adopt the few last changes and it will then be sent to LCDC.

#### ACTION

A motion was made by R. Petersdorf and seconded by R. Donaghey to direct Mr. Darnielle to draft the necessary language to meet the requirement of Goal 17 and have it ready for council approval at October meeting. The voting was unanimous and motion carried.

### III. GRANTS

There was a discussion of grants. Mr. Hale advised LCDC has what he called 306 Aid Money. The total grant has to be under \$50,000 and the City must have 25% matching funds.

LCDC also offers a Coastal Management Grant or Implementation Grant for coastal cities. The money is designed to help implement the Comprehensive Plan after it is completed. The grant amount would be between \$500 and \$1,000 annually. The requirement of the grant is that the City would agree to send Mr. Hale all agenda, city council and planning commission minutes, Findings of Fact and Conclusions of Law. Mr. Hale said that he will send grant application forms to the City.

### II. COMPREHENSIVE PLAN - Continued

The public hearing on the the Comprehensive Plan was re-opened at 8:18 PM by Mayor Baumeister. Mr. John Carlson read a statement that he had prepared. His comments concerning the Comprehensive Plan are attached with these minutes. The public hearing was closed at 8:25 PM.


### ACTION

A motion was made by N. Johnson and seconded by R. Donaghey to direct Mr. Darnielle to draft the necessary language to meet the requirement of Goal 17 and to have it ready for council approval at the October 9 city council meeting. The voting was unanimous and the motion carried.

### IV. ADJOURNMENT

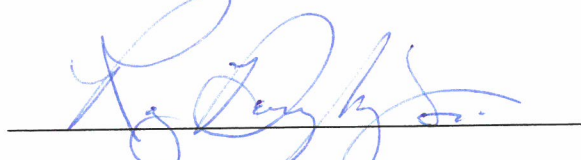
The meeting was adjourned at 8:40 PM.

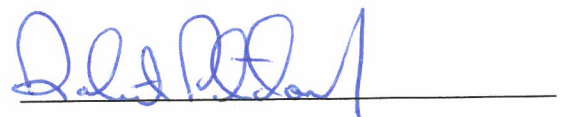
  
Mayor J. Baumeister

  
Secretary K. Bacon

  
N. Johnson

  
D. Eastman

  
R. Donaghey

  
R. Petersdorf

RE: Draft of Comp Plan update and periodic review

- Pg. 3 Item 1 refers to a total of 469 persons in Dunes City
- Pg. 3 Item 5 under Economy should be eliminated as not factual
- Pg. 7 Economic Goals 3 and 4 are unnecessary and should be eliminated. They encourage expanded tourism which is not compatible with a retirement and bedroom community and one which also depends on timber. The already excessive tourist traffic has a detrimental effect on timber trucking costs as well as turning off prospective retirees. There is no reason for the City to encourage commercial or industrial growth or high density population growth in the rural area around the City. The majority of people in Dunes City are very content with the status quo. They also know the area will grow without any encouragement. No one on the C.C.I.C. suggested these Goals. The C.C.I.C. did say they should be changed to more nearly reflect the attitude of Dunes City towards industrial and commercial growth. The only changes between Feb. 86 and Aug. 86 was the addition of the words Dunes City in front of them. The Planning Commission recommended Goals 3 and 4 be deleted. These two Goals which are in direct contravention of the Dunes City lifestyle will be picked up by the developers and exploiters and used to commercialize Highway 101 and other areas.

Dunes City is now the guinea pig for an L.C.D.C. experiment to force greater public access to the lakes whether its needed or not.

Woahink Lake has 13.5 miles of shoreline. 9.5 miles are in Dunes City. 4 miles are part of East Woahink State Park one of the largest waterfront parks in the State. The park has two big paved boat ramps and huge parking areas plus fishing docks and complete restrooms with tile showers, to compliment the swimming areas. There are also 3 easily accessible bridges on Canary Road across 3 arms of Woahink Lake. These bridges each have one side protected by railings for public fishing. The two mobile homes parks in Dunes City have their own access to Woahink. Many of the subdivisions have their own access thereby relieving any local pressure on the public facilities. Of course the lake front property owners also have no need to use the public facilities. With 30% of Woahink shoreline under ownership of the extremely well-managed Honeyman State Park there is hardly need for further public access.

Siltcoos Lake with a 24 mile shoreline has about 3.5 miles of shoreline in Dunes City plus 2/3 mile on the Siltcoos Outlet. Tyee Campground in Dunes City is a Forest Service Campground and has 1800' feet of river frontage on the Outlet. The camp has a paved boat ramp and many areas to pull boats up near the 14 camp sites. It also has a large grassy picnic and fishing area. Westlake Boat Landing has a paved boat ramp and large trailer parking area. It is operated by Fish and Wildlife and has a long fishing dock plus a beach and picnic area.

The 4 lakefront resorts in Dunes City have boat ramps and docks and rent out dockspace as well as boats and motors. At Darling's Resort on Clear Lake Road anyone may launch a boat and park the trailer all day for \$1.00.

Dunes City already owns lot 1300 of 19-12-34-2-1 which adjoins the Westlake Boat Landing. Volunteers may put in benches etc. for a picnic area. There is a right of way adjoining the Dunes City Community Center which reaches the Siltcoos Outlet but is steep. The City also has a 99 year lease on the 50' right of way extension on Cherry St. going north to reach Siltcoos Lake. This is a very steep lot. The City now has barely enough funds to survive. Liability insurance alone on lakefront access could put the City out of business.

Cutting only a trail to the water has in the past and will again cause trash accumulation and vandalism to adjoining properties. Even Lane County has had to give up taking care of most of its parks.

It is hypocritical for L.C.D.C. to keep pushing for tourist commercial development and then try to force Dunes City to acquire and develop unnecessary lake access to compete with the existing tourist commercial businesses.

Dunes City should take no action until L.C.D.C. can provide some rational reasoning for this demand and also provide specific standards of development and suggestions for both initial acquisition, development funding and maintenance and insurance funds.

Concerning amendments to zoning ordinance.

In section 2 do not add the proposed section J as its sole purpose is to guarantee approval of conditional uses of multi-family housing under any and all circumstances.

Section 6 "Shorelands" After Siltcoos Lakes add "and Outlet".

Section 7 "B" last sentence should read "The net development area shall be determined by subtracting from the gross development area lands, 1/2 of all wetlands and all lands intended or used for: etc.

John S. Carlson  
P.O. Box 126  
Westlake, Oregon 97493

P.S.

This may also be the time to discuss the ambiguous set back rules on Pg. 10 of Zoning Ordinance



Dunes City Council

September 16, 1986

RE: Comprehensive Plan Discussion

The Comp Plan goes back to sleep now for 3 years. I doubt the next review will bring anymore public participation than this time. In 1½ years only 4 non-council member residents showed up for brief appearances. Perhaps we know why.

In the last 4 weeks local big shots on three occasions challenged my right to speak at hearings on a land use matter in Dunes City since we live across the outlet. Even one councilman questioned my motives.

This upset my wife Julia since we had attended all the C.C.I.C. meetings but one. Also this plaque was given to both of us by the Dunes City Council in 1976 for outstanding service in comp plan development and represented about 500 hours of our volunteer time and hundreds of pages of typing on her part. Julia though this should give me the right to testify on land use matters in Dunes City. I've told her that this plaque and one dollar will buy a cup of coffee.

My interest in all land use questions is prompted believe it or not by a preoccupation with the survival of our civilization and an obsession with equal justice. The constitution guarantees my right to speak at a public hearing anywhere.

This local parochial attitude on the part of the "old guard" is a bit discouraging. Paper boundaries do not effect questions of erosion or scenic values or protection of property values or pollution or civil rights. I know of many citizens that have been afraid to testify at council hearings. Some feared reprisal, others could not endure the thought of being belittled and talked down to by public officials, as has occurred so often in Dunes City.

Perhaps the influence of the comp plan and stronger State laws on land use procedures helped the council resist this latest pure power politics play. If so there may be hope for both planning and civilization yet.

Perhaps this new spirit if it exists will help the council also refuse some of the overdone demands of L.C.D.C. but at the same time promote cooperation with the National Recreation Area and Lane County. A policy of talking with and acting in the interests of all the citizens of the area could bring more participation in both planning and politics and slow the steady erosion of the Dunes City Plan into an L.C.O.G. -L.C.D.C. Plan.

John S. Carlson  
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Westlake, Oregon 97493

Phone: 997-3102

DUNES CITY COUNCIL

REGULAR MEETING  
October 16, 1986

A G E N D A

- I. CALL TO ORDER AND ROLL CALL
- II. APPROVAL OF MINUTES OF September 11 and September 16
- III. BILLS AGAINST THE CITY
- IV. RECEIPTS OF THE SESSION
- V. ANNOUNCEMENTS AND CORRESPONDENCE
  - A. Marijuana Initiative
  - B. Letter from League of Oregon Cities regarding tax ballot measures
  - C. Any other correspondence
- VI. REPORTS
  - A. Parks
  - B. Any other reports commissioners may have
- VII. PUBLIC HEARINGS
  - A. Ordinance Compilation - Five Ordinances -- #96, #97, #98, #99, and #100
  - B. Periodic Review Order. Ordinances #101 and #102 and Resolution.
- VIII. EXECUTIVE SESSION a) Litigation, b) Personnel, c) Negotiations
- IX. UNFINISHED BUSINESS
  - A. Lane County Boundary Commission
  - B. Paving Bids for Russell Road
  - C. Central Lincoln P.U.D. Franchise
  - D. Dunes Buffer Zone
  - E. Adequate Language to Guarantee Public Access -- Gary Darnielle
- X. NEW BUSINESS
  - A. Lane County Corrections Master Plan - James Johnson
  - B. Cloud Nine Road
  - C. Woahink Landing
- XI. CITIZEN INPUT ON UNSCHEDULED ITEMS
- XII. ADJOURNMENT

## **DUNES CITY COUNCIL**

### **REGULAR MEETING October 16, 1986**

#### **I. CALL TO ORDER AND ROLL CALL**

The meeting was called to order at 7:35 PM by Mayor James Baumeister.

PRESENT: D. Eastman, N. Johnson, R. Petersdorf, Mayor Baumeister, E. Fillman, R. DePiero and R. Donaghey. Also present were: Attorney Ron Gerber, City Recorder Betty Stocking, and secretary K. Bacon. There were two representatives of the press and 13 citizens in attendance.

#### **II. APPROVAL OF MINUTES OF SEPTEMBER 11 and SEPTEMBER 16, 1986**

There were no corrections or additions to the minutes of the September 11, 1986, regular meeting and the special meeting held September 16; and the minutes were approved.

#### **III. BILLS AGAINST THE CITY**

**ACTION** A motion was made by R. Petersdorf and seconded by E. Fillman to pay the bills against the City. The bills had been listed as a total of \$4,836.18. However, the council asked Mrs. Stocking to withhold payment of taxes in the amount of \$14.55 to Lane County for the park property until she has received a reply to her inquiry from John Ferry of Lane County. The total for the bills would be \$4,821.63. Motion carried.

#### **IV. RECEIPTS OF THE SESSION - \$9,003.30**

#### **V. ANNOUNCEMENTS AND CORRESPONDENCE**

- A. Tax Ballot Measures.** The City had received information from the League of Oregon Cities regarding the tax ballot measures of concern to cities. The information will be posted on the City bulletin board.
- B. Oregon Marijuana Initiative.** The City had received information about the Oregon Marijuana Initiative. The information had been included in the council packets and will be posted on the City bulletin board.
- C. Siuslaw Band Parents Club.** The City had received a request from the Siuslaw Band Parents Club. The club is selling listings on calendars the club will be selling to raise funds. The request had come too late to receive council approval and still meet the publication deadline. B. Stocking suggested that the council might like to make a \$20 donation. However, no action was taken by the council.

- D. **Northwest Mileposts.** B. Stocking had received information on rates from the publication, Northwest Mileposts. She suggested that the mayor might consider appointing a committee to review the rates and include Dunes City points of interest in the publication. However, no action was taken.
- E. **Insurance Deductible on Dunes City Fire.** Attorney Gerber had talked to the insurance adjuster, Ellen Hewitt; and she had indicated that the company was ready to pay the insurance deductible. A couple of days later he had received a letter from her stating that the company insists that she wait until the company has received a response from Chubb Insurance Company. Chubb Insurance represents Dunes City. Gerber advised that her response means that American States Insurance does not want to settle with Dunes City and perhaps prejudice whatever defense they may have with Chubb Insurance. He advised that the City had two choices. 1) to wait until the insurance companies had settled with each other, or 2) to file a small claims action. Attorney Gerber advised the council to wait. The council agreed to wait, but the mayor asked Mr. Gerber to stay informed of the progress.
- F. **McCaw Cablevision.** Attorney Gerber had received a letter from Keith Martin, the Attorney for the City of Florence. He advised that our tri-annual review of the cable television franchise is now at hand. Attorney Gerber recommended that the council's cable tv commissioner should review Mr. Martin's letter and prepare a memo for the council. Mr. Gerber suggested that he would be willing to work with someone from the council to draft such a memo.

D. Eastman asked if there would be much point in pursuing the cable franchise when it had been de-regulated by Congress. Mr. Gerber said that there were some things the council should probably take a look at. No one was appointed at this meeting to work on the cable tv.

## VI. REPORTS

- A. **Roads.** Keith Watson, the Road Chairman, reported that the City had received a request from a Mr. Dunn on Erhart Road for a stop sign at the intersection of Alder Court and Erhart Road. He said that there have been three accidents at that intersection. The council did not take action on the request.



Mr. Watson discussed fixing Cloud Nine Road. He had requested B. Stocking to contact a surveyor about surveying Cloud Nine Road to determine if it is in the right-of-way before beginning work on it. When asked by the council how much work he plans to do on Cloud Nine, Mr. Watson said that it would probably only be graded. Attorney Gerber discussed the status of the road. He said that where the road sits now the property owners served by the road have almost certainly established a right to use it where it is by adverse possession or prescriptive easement. However, as far as the general public using the road, the use has to be established for ten years before adverse possession or prescriptive easement can be established. He advised that there is a high probability the road is in a wrong place, but that almost everyone who uses the road either lives on it or is visiting someone who lives on it. Therefore, he advised, that the odds are strong that the City is entitled to leave the road where it is. There was no estimate of what it would cost to survey the road. The council did not act on Cloud Nine Road.

Mr. Watson reported that Mr. Chuck Tidball, Lane County sheriff's deputy, had talked to him about the possibility of putting up some kind of barrier across a vacated street near the Westlake dock. He said off-road vehicles have been gathering there.

- B. **Parks.** Nancy Johnson reported on the Coastal Resource Improvement Grant. She had received information on submitting a pre-application for the grant. The pre-application was due October 29, which was just one week after the council meeting. She read a lengthy and detailed list of requirements for submitting the pre-application. Since it was due within one week, N. Johnson recommended the City pass for this year. However, she suggested that the Parks Committee could do the required background work now for developing the park next year so that the information will be ready in time to submit for next year's application.

## VII. ROAD BIDS

At 8 PM the Mayor opened and read the bids on paving Russell Road. The City sent out three bids and advertised for bids in the Siuslaw News. The City received two bids.

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The City had requested bids on two proposals. Proposal 1 was:

Russell Drive, 1032 lineal feet x 14 feet wide x 2" deep (from Salal pavement end to intersection of Rio Drive - fanning out Russell at joining with Salal.

Proposal 2 was:

Russell Drive, 1850 lineal feet x 14 feet wide x 2" deep (from Salal pavement end to end of Russell Drive).

Wildish bid \$9,880.00 for proposal 1 and \$16,450.00 for proposal 2.

Johnson Rock bid \$8,450.00 for proposal 1 and \$15,130.00 for proposal 2.

The council discussed the number of houses that would be served by the road and whether or not awarding the bid for paving proposal 2 would leave enough money in the road maintenance fund for the remainder of the fiscal year. N. Johnson thought the City should award the bid for proposal 2 because it would probably cost more to have a paving company come back later and finish the paving to the end. R. DePiero said that the per foot cost appeared to be the same for both proposals and he did not think the City would necessarily save money by accepting proposal 2.

In answer to a question from the audience about how it was determined to pave Russell, R. Petersdorf argued that since Russell had been considered for paving for several years, he thought that it should be paved the entire length.

**ACTION** A motion was made by R. Donaghey and seconded by R. DePiero to accept Johnson Rock's bid to pave proposal 1.

**AYE:** R. Donaghey and R. DePiero

**NAYE:** D. Eastman, N. Johnson, R. Petersdorf and E. Fillman

The motion was defeated.

**ACTION** A motion was made by N. Johnson and seconded by R. Petersdorf to accept the bid of Johnson Rock to pave proposal 2. R. DePiero asked if the remainder in the road maintenance fund would be adequate to maintain the roads for the rest of the fiscal year. Road chairman responded that he thought it would.

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**AYE:** D. Eastman, N. Johnson, R. Petersdorf, E. Fillman  
**NAYE:** R. DePiero and R. Donaghey

**Motion carried.**

**VIII. NEW BUSINESS**

**A. Public Access Language.** Gary Darnielle from LCOG introduced to the council Mr. Roy Burns, Lane County Planning Director. Mr. Burns submitted a memo to the council concerning City standards for access. Mr. Burns thought that the City's standards lacked clarity, and he had submitted a suggested set of amendments to the Dunes City Land Subdivision Ordinance. A copy of Mr. Burns memorandum is attached to these minutes. It was recommended that the Planning Commission review the suggested amendments and make a recommendation to the city council. The council agreed to this suggestion. The Planning Commission will review the suggested amendments at its November 19 meeting and make a recommendation to the City Council for its December 11 meeting. Mr. Burns will be unable to attend the November Planning Commission meeting because of a prior commitment. However, he will send Mr. Jim Mann to represent his office. Mr. Burns plans to attend the December 11 council meeting.

Mr. Robert Hartshorne, developer of the South Shore Subdivision, was present and asked Mr. Burns how his suggested language would affect the South Shore Subdivision. Mr. Burns replied that, since Lane County is currently in litigation regarding South Shore Subdivision, he could not reply.

**B. Lane County Correction Master Plan.** Sheriff David Burks made a presentation to the council concerning Lane County's Corrections Master Plan. The council members had received copies of a memorandum from Mr. James Johnson, County Administrator, concerning the Corrections Master Plan. The county had been sending officials to cities throughout the county seeking their support for bond and tax base measures which will be on the November ballot for improvements in the county's corrections program.

Those improvements include: an 88-bed addition to the current jail, an 80-bed work camp in rural Lane County, a 32-person community corrections center, a 24-person residential drug and alcohol treatment center, reopening of the mental health emergency unit, and detoxification beds. The county currently has: an existing jail with 243 beds (population must be periodically brought down to 207 by court order), a road fund work program, electronic supervision, a work release center, a pre-trial supervision program, and a community service program.

It is estimated that the yearly cost to the taxpayers if the tax base increase and the bond measure are approved would be \$25 on a \$60,000 house.

Mr. Burks talked with the council about the numbers and types of prisoners that currently must be released because of the "matrix system" and the lack of facilities to house them. He said that the rural work camp the county wants to develop will be modeled after the Crystal Creek Camp in Shasta, California. The proposed site for this camp would be near Lookout Point reservoir. Prisoners at the rural work camp would be doing forest-related work. The camp would be for prisoners who lack marketable work skills, and they would not be in competition with the regular forest-related work force. By contrast, prisoners at work release centers usually are people who have some marketable skills and can obtain employment. They help pay for their room and board at the center from what they earn.

Mr. Burks reported that many prisoners released for lack of facilities to hold them later become repeat offenders. He implied that the county lacks clout with certain classes of criminals because they know the county lacks the facilities to hold them when there are more serious offenders that must be held.

R. DePiero pointed out that the cost estimates given for the proposals average \$25,000 per bed. Burks said that the cost would average about \$60,000 per bed if the county had to build everything "from scratch"; by using some present facilities it brings the cost down to \$25,000 per bed.

N. Johnson asked if the county had considered adding just one project per year to reduce the tax burden for the taxpayers. Burks replied that the system doesn't work well without a balanced approach.

Burks said that if the tax measures are not approved, the county faces releasing more prisoners. If they are approved, the jail addition could take 12 to 18 months to complete, the 80-bed work camp could take 1 year, the 32-person community corrections center could take 6 months, the 24-bed residential drug and alcohol treatment center could take 6 months, and the mental health unit could open as soon as they hire the personnel, Burks said.

Justice of the Peace David Clark was in the audience and argued that the issue was not the burden of the additional taxes but the burden of repeatedly returning criminals to the streets.

Mr. Burks requested that the City Council approve a resolution endorsing the bond and tax base measures.

**ACTION** A motion was made by E. Fillman and seconded by R. Petersdorf to endorse Ballot Measures 19 and 20. Attorney Gerber read the resolution which becomes Resolution 10-16-86A.  
**AYE:** D. Eastman, R. Petersdorf, E. Fillman, R. DePiero  
There were no negative votes. R. Donaghey and N. Johnson abstained from voting. The motion was passed.

**IX. RECESS**

The meeting was recessed at 9:15 PM and reconvened at 9:30 PM.

**X. PUBLIC HEARINGS - Opened at 9:30 PM**

**A. Ordinance Compilation.** The mayor announced that the public hearing on the ordinance compilation and ordinances 96, 97, 98, 99 and 100 will be postponed until the November 13 council meeting at 7:30 PM. This public hearing was closed at 9:31.

**B. Periodic Review.** The mayor opened the public hearing at 9:31 on the Periodic Review of the Comprehensive Plan. Mr. Gary Darnielle from LCOG was present.

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The council had two ordinances to consider and a resolution to adopt the Periodic Review Order. Ordinance 102 amends the Comprehensive Plan. There were some substantive changes made in Exhibit A - Amendments to the Dunes City Comprehensive Plan. Mr. Darnielle went over the changes with the council. There were two areas where changes were made: lake access and economic goals. The following are the changes that were made:

Page 7 Economic Goals. The words whenever appropriate were added in the 4th line of 1. following the words . . .and convention business. And the words wherever appropriate were added in the third line of 2. following the words . . .renewable or nonrenewable .

Page 8 Policy 4. was added to meet the lake access requirement of LCDC. The new policy 4. reads: The City shall increase public access to Siltcoos Lake by developing City-owned property, located adjacent to the Westlake Boat Landing, into a park suitable for picnicing."

Page 32 Paragraph P. The following sentences are to be added to the end of paragraph 1: "The City owns a small parcel of land adjacent to the Westlake Boat Landing. This property is intended to eventually be cleared and prepared as a picnic area." This will give a factual foundation for the policy 4. on page 8, Darnielle said.

Page 39 Economic Goals. Economic Goal 3., line 4 following words . . .tourism and convention business, the words wherever appropriate shall be added. And at the end of Economic Goal 4. the words wherever appropriate shall be added following . . .renewable or non-renewable.

Page 41 Policy 8. New language "The City shall increase public access to Siltcoos Lake by developing City-owned property, located adjacent to the Westlake Boat Landing, into a park suitable for picnicing."

Page 23 Paragraph B. The mayor talked about the conflict between the first paragraph concerning Lane County testing the water quality of Woahink, Cleawox and Clear lakes. The mayor had received a letter from Lane County stating that the county had no plans to test the water quality. R. Donaghey said that Cindi Butler from LCOG had had a letter from Lane County stating that they would be testing the water. B. Stocking will send a

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copy of the letter the mayor had received from Lane County to Gary Darnielle so that he can verify it with the source of the letter C. Butler had used in drafting the policy language in the Comp Plan update.

Page 31 Paragraph M. In the third line the name of the garbage service should be Siuslaw Disposal, Inc. rather than Siuslaw Sanitary Service.

Page 5 Lakes Policies. Date should be changed in paragraph 3. to July, 1987 from July, 1986.

Page 36 Lake Policies. Date should be changed in policy 4. from July, 1986 to July, 1987.

There was no input from the audience concerning Ordinances 101 amending the Zoning Ordinance and Ordinance 102 - Amending the Comprehensive Plan. The public hearing was closed at 9:49 PM.

**ACTION** A motion was made by E. Fillman and seconded by R. Donaghey to adopt Ordinance 101 - Amending the Zoning and Ordinance 102 - Amending the Comprehensive Plan with the corrections outlined above.

Attorney Gerber read Ordinance 101 by short title, "This is an ordinance amending Dunes City Zoning Ordinance No. 50"

Attorney Gerber read Ordinance 102 by short title, "This is an ordinance amending the Dunes City Comprehensive Plan."

AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, and R. Donaghey.

The voting was unanimous and the motion passed. The council will hold the second reading of Ordinances 101 and 102 next month.

**ACTION** A motion was made by E. Fillman and seconded by R. DePiero to adopt Resolution 10-16-86B - A Resolution adopting the local Periodic Review Order for Dunes City, Oregon.

AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero and R. Donaghey.

The voting was unanimous and the motion passed.

**XI. UNFINISHED BUSINESS**

- A. Lane County Boundary Commission.** The council members had received in their packets a proposed resolution to request the legislature to divest the Lane County Boundary Commission of jurisdiction over western Lane County.

**ACTION** A motion was made by R. Petersdorf and seconded by E. Fillman to approve Resolution 10-16-86C - A Resolution petitioning the Legislature divest the Boundary Commission of jurisdiction over western Lane County".

**AYE:** D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero and R. Donaghey

The voting was unanimous and motion carried.

- B. Central Lincoln P.U.D. Franchise.** The council members had in their packets copies of a memorandum from Attorney Gerber's office concerning the Central Lincoln P.U.D. Franchise. In the memorandum, Mr. Gerber suggested some language changes to the new agreement provided by Central Lincoln P.U.D. Mr. Gerber outlined the history of the agreement between Dunes City and Central Lincoln P.U.D. A Circuit Court decision declared that P.U.D.'s cannot be compelled to enter into franchise agreements. However, the agreement between Dunes City and P.U.D. was entered into voluntarily, but the pending appeal of the court decision put the directors of the Central Lincoln P.U.D. at risk. The franchise fee payments from Central Lincoln P.U.D. have been put into a trust account pending the outcome of the appeal.

A meeting between the mayors of various cities affected by the court decision and the chief executive officer of the P.U.D. and his attorney was held. An ex officio committee was appointed to draft an agreement. They have drafted the proposed agreement that has been signed by the City of Florence.

Mr. Gerber talked with the attorney for P.U.D. Their attorney said that they have promised the cities that have already signed the agreement that P.U.D. will grant no more favorable terms to other cities than those that are contained in what is now being referred to as the Master Agreement.



Mr. Gerber was told that if Dunes City wants to make substantive changes, the agreement will have to go back to be reviewed and approved through several staff and board reviews which could result in long delays. Mr. Gerber advised the City to write a cover letter stating that the City was signing the agreement based upon P.U.D.'s promises that if the court overturns the decision the franchise agreement will be re-instated.

Attorney Gerber outlined the language conflicts between the present franchise and the proposed agreement section by section. There was considerable council discussion on Section 7 and the potential costs of litigation. The council asked Mr. Gerber if the new city liability insurance policy would cover the cost of litigation if it should arise. Mr. Gerber advised that he did not think it would.

**ACTION**

A motion was made by R. DePiero and seconded by R. Donaghey to accept the proposed agreement as written and signed by the City of Florence.

AYE: D. Eastman, N. Johnson, R. Petersdorf, R. DePiero, and R. Donaghey

NAYE: E. Fillman

Motion carried. Attorney Gerber will draft the agreement for signature.

- C. **Dunes Buffer Zone.** Mayor Baumeister asked N. Johnson to talk to the Dunes N.R.A. about a dunes buffer zone. Mrs. Johnson said that the N.R.A. does not want to have a buffer zone. There was discussion among the council members as to whether or not it is being patrolled. R. DePiero argued that if the noise level is the problem, there should be a restriction on the allowable decibel level rather than a buffer zone. He said that the N.R.A. is presently monitoring the db level. R. Donaghey stated that a curfew would also help. N. Johnson reminded the council that the N.R.A. is testing noise levels now but estimate that it will take a year to complete all the testing. N. Johnson will schedule an appointment with the new dunes ranger and discuss what the council had discussed at this meeting.

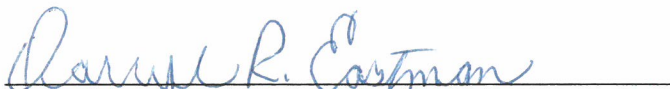
- D. **Woahink Landing.** The City had received several complaints from citizens who had read of the proposed re-opening of Woahink Landing and the addition of male strippers and hot tubs. Mr. Bruce Mower from the Lane County Health Department had requested the City notify him when the City receives a request for liquor license approval for the Woahink Landing. Mr. Mower said that there are several health problems at the Landing that he would like to see taken care of before it reopens. Attorney Gerber advised that the City request a letter from Mr. Mower on official Lane County letterhead stating specifically what the health problems are at the Landing so that the City may advise an applicant at the time application is made for the liquor license. B. Stocking will write the letter.

XII. **ADJOURNMENT**

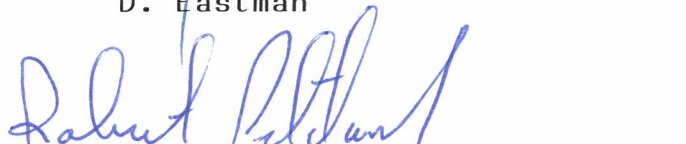
The meeting was adjourned at 10:55 PM.


  
Mayor J. Baumeister

  
Secretary K. Bacon

  
D. Eastman

  
N. Johnson

  
R. Petersdorf

  
E. Fillman

  
R. DePiero

  
R. Donaghey

M E M O R A N D U M

TO: Honorable James E. Baumeister, Mayor  
Council Member for Dunes City

FROM: Roy Burns, Planning Director for Lane  
County

SUBJECT: Suggested Improvements for  
Planning Coordination

DATE: October 14, 1986

The recent situation regarding access for a subdivision, which led to a land use appeal of your approval by Lane County, is not the type of relationship that Dunes City and Lane County historically have maintained.

Our review of standards for access, as established in your Ordinances, disclosed a lack of clarity. We would request you consider amendments to your Ordinance to establish more clearly defined standards to deal with access.

Appendix 'A' is a suggested set of amendments to your Dunes City Land Subdivision Ordinance.

RLB/jbw

c.c. Gary Darnielle

Attachment: Appendix 'A' (Suggested amendments for subdivision and partition access in Dunes City.)

## APPENDIX 'A'

### **Suggested Amendments for Subdivision & Partition Access Dunes City**

**Section 1**      **Definitions.** The following definitions apply to the Dunes City Land Subdivision Ordinance.

(1) **Access.** The vehicular movement to and from an abutting property to a roadway. Includes only that part of the driveway that lies within the established right-of-way limits of the roadway.

(2) **Access Point.** The connection of a driveway at the right-of-way line to the roadway.

(3) **Driveway.** Every entrance or exit used by vehicular traffic to or from properties abutting a roadway.

(4) **Egress.** The exit of vehicular traffic from abutting properties to a roadway.

(5) **Ingress.** The entrance of vehicular traffic to abutting properties from a roadway.

(6) **Throughway.** A highway or street especially designed for through traffic, over, from or to which owners or occupants of abutting land or other persons have no easement of access or only a limited easement of access, light, air or view, by reason of the fact that their property abuts upon the throughway or for any other reason.

**Section 2**      **Restrictions with Regard to Access Points.**

(1) Each property is entitled to access to a public street or alley, either through direct access or indirectly through easements or shared driveways, except when the street has been designated a throughway, and access rights obtained.

(2) Direct driveway access to collector and arterial streets shall be avoided where possible. On a corner lot or parcel adjacent to two public roads, the applicant may be required to take access from only one road. Access shall normally be taken on the minor of two intersecting streets.

(3) When appropriate, the use of joint driveways for adjoining properties shall be required.

(4) During reconstruction of arterial and collector streets, existing access points shall be reduced as much as possible, in accordance with (2) and (3) above.

(5) Unused driveways and curb cuts shall normally be closed and replaced by a full height curb or adjacent street improvements.

(6) Exceptions to these access control standards may be permitted by the City Council or their designee in the interest of traffic safety and good engineering and planning practice. Such exceptions may require further restrictions on the use of the driveway, such as one-way traffic movement or prohibitions against certain turning movements.

(7) The City reserves the right to make or require such changes, additions, repairs, and relocation to the driveway or its appurtenances in the right-of-way that at any time are considered necessary to permit relocation, reconstruction, widening, or maintenance of the roadway or to provide proper protection of life or property on or adjacent to the

roadway.

**Section 3**        **Relation to Adjoining Road System.** A subdivision or partition shall provide for the continuation of major and secondary roads existing in adjoining subdivisions or partitions, or for their proper projection when adjoining property is not subdivided or partitioned, and such streets shall be of a width not less than the minimum requirements for roads set forth in the Dunes City Land Subdivision Ordinance. Where the Approving Authority determines that topographic conditions make such continuation or conformance impractical, exceptions may be made as provided in modification and appeals procedures.

**Redevelopment Plan.** Redevelopment plans may be required to show compliance to LC 13.050(4)(a), (b) & (c) above prior to preliminary approval.

**Section 4**        **Access.**

(1) Lots or parcels shall have verifiable access by way of a street, either County, local access - public or an easement. Verifiable access shall meet the following criteria:

(a) Each lot or parcel abuts on the street for a distance of at least 20 feet.

(b) There is a legal right appurtenant to the lots or parcels to use the road for ingress and egress. A legal right to use an easement may be evidenced by: 1) an express grant or reservation of an easement in a document recorded with the County Recorder, 2) a decree or judgement issued by a court of competent jurisdiction, 3) an order of the Court establishing a statutory way of necessity or gateway road, or 4) an express easement set forth in an approved and recorded subdivision or partition.

(c) The street provides actual physical access to the lots or parcels.

(2) Public and local access- public streets used as access to lots or parcels shall be designed and developed according to the standards of the Dunes City Land Subdivision Ordinance.

(3) Easements used as access to lots or parcels shall meet the following criteria:

(a) There shall be no more than four lots, parcels, or unsubdivided or unpartitioned tracts of land accessed by any portion of the easement, except that more than four lots in a cluster subdivision may be accessed by an easement. This restriction may be modified through compliance with exceptions as provided in modification and appeal procedures.

(b) Easements shall not be approved if the road is presently needed or is likely to be needed for access to adjacent properties or to be utilized for a County or public road in the normal development of the area.

(c) The minimum width of easements shall be 20 feet.

(d) All approved documents creating a private access easement shall provide for the installation, construction maintenance thereof of all public utilities and facilities which are now or may in the future be needed for the area abutting the road and the surrounding area.

(e) The City may require such improvements as are reasonably necessary to provide safe and adequate access to the lot or

parcel.

(f) A lot or parcel abutting a railroad or limited access road right-of-way may require special consideration with respect to its access requirements.

(g) Any easement approved as a private access easement shall be documented on a form acceptable to the City and shall contain the minimum following information: grantor and grantee, description of dominant and servient tenements, description of the intent or purpose of the easement and a statement of maintenance responsibility.

(h) All approved easements shall be recorded.

(i) If the City determines that the access and transportation needs of the public would be better served if the private access easement being considered would be established as a public road it may require that a public road dedication be made to a length and width deemed sufficient by the City.

(4) For the portion of a panhandle tract used as access to the main portion of the tract, the City may require such road improvements and design as are necessary to provide safe and adequate access to the main portion of the tract.



# MEMORANDUM

*Attach to  
minutes*

**TO:** Interested Parties

**FROM:** Jim Johnson, County Administrator

**SUBJECT:** Summary of Incarceration and Supervision Elements in Lane County's Corrections Master Plan

**DATE:** September 10, 1986

A number of people have requested a brief explanation of the specific incarceration and supervision elements in Lane County's Corrections Master Plan. Two parts of the master plan are explained below: 1) those items included in the bond and tax base measure, and 2) those options already in place.

## 1. Items in the Bond and Tax Base Measures Include:

a. **An 88-bed Addition to the Current Jail.** The addition will be adjacent to the current jail and will consist of 40 beds in a single-cell configuration and 48 beds in dormitories.

b. **An 80-bed Work Camp in Rural Lane County.** Generally described, an inmate workcamp is a facility for minimum and medium security sentenced inmates. The inmates will be in the custody of the Lane County Department of Public Safety. Inmates will do physical labor during the day time hours, probably on U.S. Forest Service and/or U.S. Bureau of Land Management forest land. They may also do other public service jobs. In the evenings the inmates would return to "military" style dormitory facilities. Typical facilities at the workcamp would include sleeping dormitories (probably two 40 bed dorms), a mess hall, a recreation area, offices for guards, a building for equipment and vehicle storage, and so forth. Inmates will maintain the camp itself as much as possible.

c. **A 32-Person Community Corrections Center.** A second Community Corrections Center is part of the plan. The Center will likely be a renovated existing facility. The facility will house minimum security municipal code violators and probation violators. It will be both a 24-hour jail facility and provide a work release option.

d. **A 24-Person Residential Drug and Alcohol Treatment Center.** The plan is to renovate an existing building to provide a 24-hour residential facility for inmates who have alcohol and drug problems. It will likely be operated by a local non-profit corporation on a contract basis rather than by Lane County government employees.

e. **Reopening of the Mental Health Emergency Unit.** Constructed as part of the new jail, the Mental Health Emergency Unit serves two major client groups: 1) voluntary admissions for persons who

believe they are suffering from mental illness; and 2) involuntary admissions for persons believed to be psychotic by the local mental health staff or by police personnel. The MHEU will provide short-term respite care until the person is stabilized and can access outpatient or other appropriate treatment. Since the physical facility is in place as part of the existing jail structure, only money for operating costs is needed.

**f. Detoxification Beds.** The proposed tax base increase would finance the operation of 4 beds in a local non-profit corporation facility. Persons who are intoxicated from drugs or alcohol would be taken to the non-profit facility rather than the local jail.

The total construction and renovation costs would be financed by the sale of General Obligation bonds in the amount of \$5,129,160. The operating costs for the new facilities would require an increase in the county's tax base in the amount of \$3,131,791. More specifically, the table below describes the costs of individual items:

	<u>Estimated Construction/ Renovation Costs</u>	<u>Estimated Yearly Operations Costs</u>
a. 88-bed Jail Addition	\$2,254,160	\$275,000
b. 80-bed Work Camp	\$2,500,000	\$830,000
c. 32-Person Community Corrections Center	\$125,000	\$324,000
d. 24-Person Drug and Alcohol Treatment Center	\$100,000	\$370,000
e. Mental Health Emergency Unit	-----	\$850,000
f. Detox Beds	-----	<u>\$60,000</u>
Subtotal	<u>\$4,979,000</u>	<u>\$2,709,000</u>
Add % for Uncollected Property Taxes		<u>\$422,791</u>
Add Bond Issuance Costs	<u>\$150,000</u>	
Totals	\$5,129,160	\$3,131,791

It is estimated that the yearly cost to the owner of a \$60,000 house will be just slightly less than \$25.00 if the tax base increase and the bond measure receive voter approval.

**2. Existing Incarceration and Supervision Options.** The incarceration and supervision options now in use include the following:

**a. Existing Jail.** 243 beds are available in the existing jail. Under the federal court order, the population must periodically be brought down to a total of 207 inmates.



b. **Road Fund Work Program.** About 40 inmates can be handled on the road fund work program, which now operates six days per week. Financed with County Road Funds, inmates do physical labor on roadsides and around bridges. The work program has been a good substitute for weekend sentences in the jail. This program can be expanded up to about 50 slots for inmates on two-day sentences.

c. **Electronic Supervision.** State Community Corrections Act (CCA) grant dollars have financed the purchase of a personal computer and 20 electronic supervision units for a house arrest program.

d. **Community Corrections Center (Work Release Center).** CCA dollars are also financing the operation of a 32 bed work release center located at 11th and Washington in Eugene.

e. **Pre-Trial Supervision Program.** An intensive pre-trial supervision program is also available through the Department of Public Safety. Funded by CCA dollars, the program can accommodate about 15 inmates.

f. **Community Service Program.** About 250 people are currently participating in the existing community service program. Judges order non-violent offenders to do days or weeks of mandatory community service work as part of their sentences.

DUNES CITY COUNCIL

REGULAR MEETING  
NOVEMBER 13, 1986

A G E N D A

- I. CALL TO ORDER AND ROLL CALL
- II. APPROVAL OF MINUTES OF OCTOBER 9, 1986
- III. BILLS AGAINST THE CITY
- IV. RECEIPTS OF THE SESSION
- V. ANNOUNCEMENTS AND CORRESPONDENCE
- VI. REPORTS
  - A. Planning Commission recommendations:
    1. \*\*Setback requirements
    2. Appointment of new planning commissioners
  - B. Any other reports council members may have.
- VII. PUBLIC HEARINGS
  - A. Conditional Use Permit - Steve L. Goss
  - B. Conditional Use Permit - Howard Brusseau
  - C. Conditional Use Permit - Bill and Kathleen Harris
  - D. Sign Permit - Siltcoos lake Resort
  - E. Ordinance Compilation and Ordinances #96, 97, 98, 99 and 100 - Alan Contreras will be here.
  - F. Periodic Review Resolution and Ordinances #101 and #102.
- VIII. EXECUTIVE SESSION (if needed) a) Litigation, b) Personnel, c) Negotiations.
- IX. UNFINISHED BUSINESS
  - A. Stop sign at Erhart Road and Alder Court - Action required.
- X. NEW BUSINESS
  - A. Ordinance controlling heavy industrial use of City streets - Attorney Gerber.
  - B. Ordinances on setting fees and penalties - Attorney Gerber.
- XI. CITIZEN INPUT ON UNSCHEDULED ITEMS
- XII. ADJOURNMENT

\*\* Information distributed at October council meeting.

## DUNES CITY COUNCIL

### REGULAR MEETING November 13, 1986

#### I. CALL TO ORDER AND ROLL CALL

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

PRESENT: D. Eastman, N. Johnson, R. Petersdorf, Mayor Baumeister, E. Fillman, R. De Piero, R. Donaghey, Attorney Ron Gerber, City Recorder Betty Stocking and secretary K. Bacon. There were 17 citizens and 2 representatives of the press in the audience.

#### II. APPROVAL OF MINUTES OF OCTOBER 16, 1986

There were no corrections or additions to the minutes of October 16, 1986; and the minutes were approved.

#### III. BILLS AGAINST THE CITY

##### ACTION

A motion was made by E. Fillman and seconded by D. Eastman to approve the bills against the City in the amount of \$18,719.35. This amount includes the amount of reimbursement for N. Johnson's meals at the League of Oregon Cities Conference. The voting was unanimous, and the motion carried.

#### IV. RECEIPTS OF THE SESSION - \$6,625.89

It was noted that the City had begun receiving the money from Central Lincoln P.U.D. for the franchise fees again. The receipts this month include the amounts from P.U.D. that were held in a trust account awaiting the outcome of the court decision.

#### V. ANNOUNCEMENTS AND CORRESPONDENCE

- A. **Letter to Bass Club.** B. Stocking announced that the City had written a letter to the Coastal Bass Club thanking the club for its donation to the City.
- B. **Forest Plan.** B. Stocking displayed a set of three volumes of the proposed Forest Plan and Draft Environmental Impact Statement for the Siuslaw National Forest. The park commissioner, Nancy Johnson, said that she would like to study them.

## VI. REPORTS

- A. **Amending Setback Requirements.** The council discussed the language in the Zoning Ordinance on Page 10 concerning setbacks and the way of measuring from the road. The building inspector, Emile Mortier, suggested that the language be changed to omit reference to measuring from the setback. He recommended that instead the City institute a standard 25-foot front yard measured from the property line, and a standard 15-foot side yard (for lots on a corner) which would also be measured from the property line. A front yard on Highway 101 would remain 30 feet. Attorney Gerber will draft an ordinance amending the Zoning Ordinance regarding the setbacks and reflecting the council's wishes as discussed at this meeting.
- B. **Planning Commission Applicants.** The City had received the applications of three men interested in serving on the Planning Commission. The Commission had requested that the City Council wait to appoint a new member to replace Phil Nichols who had resigned. The commission wanted to have time to interview the applicants and make a recommendation to the council.
- C. **Sheriff's Report.** D. Eastman had distributed copies to the council members of the sheriff's patrols for the month of October. He also reported that the City had received a complaint of two dogs that had been running at large and had jumped a citizen. He had investigated the incident and had talked to the owners of the dogs who had responded that they were trying to resolve the problem.
- D. **Southshore Subdivision.** Attorney Gerber reported that the lawsuit against Southshore Subdivision by Lane County had been dropped, and that the appeal had been dropped. The plat has been filed with Lane County. Attorney Gerber reported that the case had been dismissed with prejudice meaning that it could not be re-filed.

## VII. PUBLIC HEARINGS

- A. **Ordinances #101 and #102.** The mayor opened the public hearing at 7:54 PM on the second reading of Ordinances #101 and #102.

### ACTION

A motion was made by E. Fillman and seconded by D. Eastman to have the second reading of Ordinance #101 by short title only. "An Ordinance Amending the Dunes City Zoning Ordinance (Ordinance No. 50)"  
The voting was unanimous and Attorney Gerber read the ordinance by short title only.

**ACTION** A motion was made by E. Fillman and seconded by D. Eastman to accept the second reading of Ordinance #101.

AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. De Piero and R. Donaghey. There were no votes in opposition and the motion carried.

**ACTION** A motion was made by E. Fillman and seconded by R. De Piero to have the second reading of Ordinance #102 by short title only. The voting was unanimous and Attorney Gerber read the ordinance by short title.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of Ordinance #102.

AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero and R. Donaghey. There were no votes in opposition, and the motion carried.

The mayor closed the public hearing at 7:58 PM.

- B. Ordinance Compilation.** The mayor opened the public hearing on the ordinance compilation and Ordinances #96, #97, #98, #99, #100 at 7:58 PM. The Attorney explained to those in attendance that the five above-mentioned ordinances were "housekeeping" ordinances that it was found necessary to enact when the Bureau of Governmental Research and Service began the ordinance compilation for the City.

A comment was made by Jack Daubenspeck in the audience following Attorney Gerber's announcement that Ordinance #100 allows certain types of hunting and trapping with the city. Mr. Daubenspeck and members of his family had birdshot fall on them one day from a shot fired by a hunter from Clear Lake Road. A discussion among the council followed as to whether or not hunting should be allowed in the city. Presently bird hunting with scatter guns is the only hunting allowed in the city. Attorney Gerber explained how hard it would be to change that regulation at this time of year. The City's regulation has already been incorporated into the Fish and Wildlife regulations. If the City decides to change this regulation, the time to do it would be in the Spring so that the Fish and Wildlife department in time to have it included in its regulations.

The mayor closed the public hearing at 8:08 PM.

- ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the first reading of Ordinances #96, #97, #98, #99, and #100 by short title only. The voting was unanimous and Attorney Gerber read them by short title.
- ACTION** A motion was made by R. Petersdorf and seconded by N. Johnson to accept the first reading of Ordinance #96 - An ordinance supplying a proper ordaining clause for ordinances 60, 62, 89, 90 and 91. The voting was unanimous, and the motion carried.
- ACTION** A motion was made by E. Fillman and seconded by R. Donaghey to accept the first reading of Ordinance #97 - An ordinance amending Ordinance No. 59 relating to penalties for violating soil erosion and vegetation control provisions. The voting was unanimous, and the motion carried.
- ACTION** A motion was made by E. Fillman and seconded by R. DePiero to accept the first reading of Ordinance #98 - An ordinance updating the planning commission ordinance, No. 42, and repealing the old provisions.
- ACTION** A motion was made by R. Petersdorf and seconded by E. Fillman to accept the first reading of Ordinance #99 - An ordinance repealing Ordinance No. 71 and updating its provisions for authorizing denial of building permits and land use applications. The voting was unanimous and the motion carried.
- ACTION** A motion was made by R. Petersdorf and seconded by N. Johnson to accept the first reading of Ordinance #100 - An ordinance allowing certain types of hunting and trapping within the city. The voting was unanimous and the motion carried.
- C. Steve L. Goss - Conditional Use Permit.** Mayor Baumeister opened the public hearing at 8:15 PM. Mr. and Mrs. Goss request a Conditional Use Permit to place a mobile home on a lot in a residential area. Mr. Goss testified that the lot is heavily-wooded, and the mobile home will not be visible from the street or obstruct the view of the surrounding neighbors. There was no testimony for or against the proposal. D. Eastman mentioned that he had observed a deck built upon the drainfield and questioned whether that would be allowed by the sanitarian.

Attorney Gerber suggested that Mr. and Mrs. Goss request a courtesy inspection from the building inspector before they remove some things upon the property now and install others so that they will be installed properly.

**ACTION**

A motion was made by R. Donaghey and seconded by N. Johnson to approve the Conditional Use Permit request of Mr. and Mrs. Steve L. Goss to place a mobile home upon a lot in a residential area -- accepting the Planning Commission's Findings of Fact, Conclusions of Law and conditions. These are listed in the Conditional Use Permit file of Steve L. Goss which is on permanent file in the Dunes City office. The voting was unanimous, and the motion carried.

**D. Howard W. Brusseau - Conditional Use Permit.** The mayor opened the public hearing at 8:25 PM. Mr. Brusseau was not in the audience, and there was no one to testify for or against the proposal. The city council members had received the packet of information gathered at and prior to the Planning Commission's public hearing. The public hearing was closed at 8:26 PM. Mr. Robert Forrest of the Fern Acres Water System testified that the storage tank and well for the water system are located in tax lot #4901 about 75 feet south of Mr. Brusseau's lot. Mr. Forrest expressed concern that the filling Mr. Brusseau has done on his lot to level it has created a berm. Testimony at the meeting indicated that the water that used to flow across Mr. Brusseau's lot may now be held back by the berm and then be suddenly released -- perhaps contaminating the water system. There was also concern expressed that the fill could be eroded by runoff and disrupt Mr. Brusseau's sewer line and pollute the water supply. The council discussed sending a letter to Mr. Cruikshank, the Lane County Sanitarian, outlining the council's concerns about the septic system and ask that he pay particular attention to it. Mr. Eastman also pointed out a discrepancy between the original sewage system drainfield and the sand filter replacement area shown on two plot maps submitted by the sanitarian.

**ACTION**

A motion was made by D. Eastman and seconded by R. Petersdorf to approve the Conditional Use Permit request of Howard Brusseau to place a mobile home on a residential lot - - accepting the Planning Commission's Findings of Fact, Conclusions of Law and conditions with the additional condition that an approved septic system be installed prior to December 15, 1986.



AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. Donaghey  
NAYE: R. DePiero

The motion carried.

The council further requested that Mr. Cruikshank respond to the council's request by December 11. B. Stocking will write the letter to Mr. Cruikshank and will send a copy of the letter to Mr. Brusseau.

E. **Sign Permit for Siltcoos Lake Resort.** The mayor opened the public hearing at 8:50 PM on the request of Virginia Camery of Siltcoos Lake Resort for a sign permit to replace an existing sign. The sign had already been installed when the sign permit application had been submitted. Mr. Jim Fish, representing Mrs. Camery, distributed pictures of the signs on his property. Pauline Fillman testified that in her opinion the sign is too close to the road. Ruth Ball objected to an additional sign the resort had put up pointing to their property saying "Siltcoos River". She said that she has seen people be confused by the sign thinking that they can get to the river that way and then turn around and leave disgruntled. Mr. Fish explained that there is access to the river there because he has a boat dock on the river.

The public hearing was closed at 9:05 PM.

The mayor declared a recess at 9:05 PM. The meeting was reconvened at 9:10 PM.

There was no additional public testimony.

**ACTION** A motion was made by R. Petersdorf and seconded by R. Donaghey to approve the sign permit request of Virginia Camery for Siltcoos Lake Resort -- accepting the Planning Commission's Findings of Fact, Conclusions of Law and conditions and stipulating an additional condition that the two directional signs that are now posted on the telephone pole be removed and that the back of the sign be restored to a natural wood color or earth tones as stated in Finding of Fact #3.

AYE: D. Eastman, N. Johnson, R. Petersdorf, R. DePiero and R. Donaghey

ABSTAIN: E. Fillman who had declared a potential conflict of interest since he lives on the same street as the sign in question.

The motion carried.

F. **Bill and Kathleen Harris - Conditional Use Permit to raise rabbits and chickens as a 4-H project for their children.** The mayor opened the public hearing at 9:15 PM. The Harrises were not in the audience and there was no public testimony for or against the proposal. The council had received the packet of information from the Planning Commission public hearing and the Planning Commission's recommendation.

The public hearing was closed at 9:17 PM.

N. Johnson and R. Petersdorf expressed an objection to chickens because of the noise and odor. N. Johnson said that she does not object to rabbits. Attorney Gerber advised that the council place a limitation on the amount of noise that would be allowed by the chickens and roosters.

Because of the difference in opinion, it was decided to consider the rabbits and chickens separately.

**ACTION**

A motion was made by R. Petersdorf and seconded by D. Eastman to approve the Conditional Use Permit request of Mr. and Mrs. Bill Harris for a 4-H project for their children to raise rabbits -- accepting the Planning Commission's Findings of Fact, Conclusions of Law and conditions and with the additional condition that the rabbits will be raised only as a 4-H project for their children, following the guidelines required for a 4-H rabbit project, and that the Conditional Use Permit will be revoked when the children are no longer enrolled in 4-H.

AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. Donaghey.

ABSTAIN: R. DePiero.

The motion carried.

**ACTION**

A motion was made by R. DePiero and seconded by E. Fillman to approve the Conditional Use Permit request of Mr. and Mrs. Bill Harris for a 4-H project for their children to raise chickens -- accepting the Planning Commission's Findings of Fact, Conclusions of law and conditions and with the additional condition that the chickens will be raised only as a 4-H project for their children, following the guidelines required for a 4-H chicken project, and that the Conditional Use Permit will be revoked when the children are no longer enrolled in 4-H, and that the Conditional Use Permit will be revoked if there are any complaints regarding noise from the chickens and roosters.

AYE: D. Eastman, R. Petersdorf, E. Fillman, R. DePiero, R. Donaghey.  
NAYE: N. Johnson

The motion carried.

**ACTION** A motion was made by R. Donaghey and seconded by R. DePiero that the City return the \$75 Conditional Use Permit fee paid by the Harrises. The council discussed the matter of fees for a 4-H project or for permission to raise chickens, fur-bearing animals, etc. There was a discussion of the costs involved to the City. The City office staff pointed out that it costs as much to process an application for a Conditional Use Permit for rabbits as it does for a mobile home. The council felt that maybe it should be removed from the Conditional Use Permit process and become just a simple fee procedure. The City Recorder pointed out that the business license and fee ordinance had been stalled for several months, and that perhaps it was time that it was finalized and implemented.

Attorney Gerber will draft a memo which will take this kind of issue out of a Conditional Use Permit, slash fees, and make it a simple permit.

The council will discuss it at the December council meeting.

#### **VIII. UNFINISHED BUSINESS**

**A. Stop Sign at Erhart Road and Alder Court.** This matter had been brought up by the Road Chairman at the October City Council meeting. There had been accidents at the intersection, and it was recommended by the Road Chairman that a stop sign be put up at the intersection

**ACTION** A motion was made by R. Petersdorf and seconded by R. Donaghey that a stop sign be placed at the intersection of Alder Court and Erhart Road, and that it be decided by the Road Chairman which street the sign will face. R. DePiero pointed out that Erhart Road is still largely undeveloped and has a greater potential for development and future increased traffic. Mr. Watson, the Road Chairman, recommended that the stop sign be placed at the intersection to face Alder Court traffic coming onto Erhart Road.

The voting was unanimous, and the motion carried.

IX. NEW BUSINESS

A. **Ordinance on Controlling Heavy Industrial Use of City Streets.** Attorney Gerber had drafted an ordinance to control heavy industrial use City streets. Attorney Gerber outlined the ordinance for the council. They had received copies of the proposed ordinance in their packets. The council will further discuss the ordinance at the December meeting and will schedule a first reading of the ordinance for the January council meeting.

It was suggested that packets for the December meeting will be prepared for the newly-elected council members as well as the present council so that the new members can begin to prepare themselves for the change of office in January.

B. **Proposed Ordinance on Fees and Penalties.** The council discussed the proposed ordinance Attorney Gerber had drafted setting fees and penalties. This ordinance will be on the December council agenda for guidance, and the council will have a first reading of the ordinance at its January meeting.

X. CITIZEN INPUT ON UNSCHEDULED ITEMS

A. **World Peace.** Mr. and Mrs. Aaron Bowen of the Baha'i Faith presented the council members with copies of a pamphlet entitled, "The Promise of World Peace - A Statement of the Universal House of Justice to the Peoples of the World." Mr. Bowen explained that the Universal House of Justice is the supreme governing body of the Baha'i Faith and mentioned how it is convened.

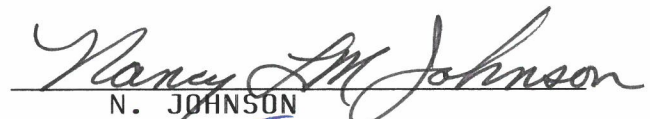
XI ADJOURNMENT

The meeting was adjourned at 10:15 PM.

  
MAYOR JAMES BAUMEISTER

  
SECRETARY K. BACON

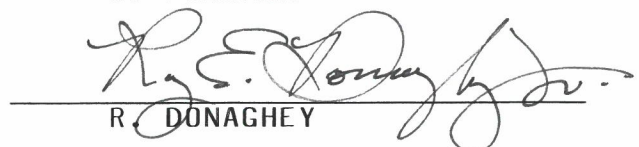
  
D. EASTMAN

  
N. JOHNSON

  
R. PETERSDORF

  
E. FILLMAN

  
R. DE PIERO

  
R. DONAGHEY

DUNES CITY COUNCIL

REGULAR MEETING  
December 11, 1986

A G E N D A

- I. CALL TO ORDER AND ROLL CALL
- II. APPROVAL OF MINUTES OF NOVEMBER 13, 1986
- III. BILLS AGAINST THE CITY
- IV. RECEIPTS OF THE SESSION
- V. ANNOUNCEMENTS AND CORRESPONDENCE
  - A. Proposed Rule on Policies -- Boundary Commission
  - B. Census
  - C. BPA Program Solicitation
  - D. DEQ Oil and Hazardous Materials Emergency Response Plan
- VI. PUBLIC HEARINGS
  - A. Comprehensive Plan Wording Regarding Public Access -- Gary Darnielle
  - B. Ordinance Compilation -- Alan Contreras  
Second reading/declaring an emergency for 96, 97, 98, 99, 100 and seven housekeeping ordinances
  - C. Suggested Improvement for Planning Coordination -- Roy Burns or designee
  - D. Minor Partition -- Doug Hickman
  - E. Conditional Use Permit to have two horses -- Valere Brandt
  - F. Conditional Use Permit to have mobile home -- Harold Young
  - G. Road Permit Appeal for Salal Road -- Ruth Wood
- VII. REPORTS
  - A. Election results
  - B. Road report in packets
  - C. Planning Commission Year-end report in packets
  - D. Any other reports council members may have
- VIII. UNFINISHED BUSINESS
  - A. Draft Ordinances -- Attorney Ron Gerber
- IX. NEW BUSINESS
  - A. 1987 Holiday Calendar for Office Closure
  - B. Planning Commission Appointment
  - C. Resolution adopting audit report of 6-30-86
- X. CITIZEN INPUT ON UNSCHEDULED ITEMS
- XI. EXECUTIVE SESSION (if needed)
- XII. ADJOURNMENT

## DUNES CITY COUNCIL

### REGULAR MEETING December 11, 1986

#### I. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 7:30 PM by N. Johnson, the most senior member of the council, since the mayor was absent.

PRESENT: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. De Piero, R. Donaghey, Attorney Ron Gerber, City Recorder B. Stocking and secretary K. Bacon. There was one representative of the press present and 16 citizens in the audience. Mayor J. Baumeister was absent due to a family illness.

#### II. ELECTION ON COUNCIL PRESIDENT

The first order of business was to elect a council president to chair the meeting. A council president had not been elected to replace former council president Bill Pitts since his resignation.

#### ACTION

A motion was made by D. Eastman and seconded by E. Fillman to nominate Robert Petersdorf to serve as council president. The council voted by ballot. The ballots are attached with these minutes. B. Stocking tabulated the ballots and announced that the voting was unanimous for Mr. Petersdorf. R. Petersdorf presided over the rest of the meeting.

#### III. APPROVAL OF MINUTES OF NOVEMBER 13, 1986

#### ACTION

A motion was made by N. Johnson and seconded by R. Donaghey to pay the bills against the City in the amount of \$4,742.72. With the addition of Mr. Gerber bill for attorney fees, the total was \$5,172.62. The voting was unanimous and the motion carried.

#### IV. RECEIPTS - \$4,853.16

#### V. ANNOUNCEMENTS AND CORRESPONDENCE

A. **Census.** B. Stocking reported that she had received the census report from the Center for Population Research and Census. The report showed that the population was down as of July 1, 1986, to 1,145 from the July 1, 1985, population estimate of 1,170.

B. **Bonneville Power Administration.** The City had received notice from the BPA of an upcoming program of financial assistance for innovative approaches to conservation by local jurisdictions and Indian tribes.

- C. DEQ. The City had received a draft copy of Oregon's Oil and Hazardous Materials Emergency Response Plan. The DEQ was soliciting comments concerning the plan.

## VI. PUBLIC HEARINGS

R. Petersdorf opened the public hearing at 7:36 PM for the ordinance amending the Comprehensive Plan regarding public access to the lakes. Attorney Gerber reviewed the new language that would be inserted. The proposed ordinance had not been advertised for a first reading. The council will have the first reading at its January meeting.

- A. Ordinances 96, 97, 98, 99 and 100. R. Petersdorf opened the public hearing at 7:42 PM for the second reading of Ordinances 96, 97, 98, 99 and 100. Attorney Gerber reviewed for council these five ordinances and seven housekeeping ordinances. Following council discussion, it was decided to strike the language "other than a dog" from Section 4 (2) of Ordinance 108. The public hearing was closed at 7:55 PM.

**ACTION** A motion was made by E. Fillman and seconded by R. Donaghey to have the second reading of Ordinance #96 by short title only. The voting was unanimous and motion carried. Attorney Gerber read Ordinance #96 by short title:  
"An ordinance supplying an ordaining clause for ordinances No. 60, 62, 89, 90 and 91."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of Ordinance #96.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, R. Donaghey.  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the second reading of Ordinance #97 by short title only. The voting was unanimous and motion carried. Attorney Gerber read Ordinance #97 by short title:

"An ordinance amending Ordinance No. 59, pertaining to soil erosion and vegetation."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of Ordinance #97.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, and R. Donaghey.  
NAYE: none  
Motion carried.



**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the second reading of Ordinance #98 by short title. The voting was unanimous and Attorney Gerber read the ordinance by short title:

"An ordinance continuing a planning commission for the City of Dunes City; prescribing its duties; repealing Ordinance No. 42."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of of Ordinance #98.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, and R. Donaghey.  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by R. Donaghey to have the second reading of Ordinance #99 by short title only. The voting was unanimous and Attorney Gerber read Ordinance #99 by short title:

"An ordinance authorizing denial of building permits and land use applications to owners, developers, and contractors who are not in compliance with municipal ordinances and conditions created by the Subdivision Ordinance."

**ACTION** A motion was made by E. Fillman and seconded by R. DePiero to accept the second reading of Ordinance #99.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, and R. Donaghey.  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the second reading of Ordinance #100 by short title only. The voting was unanimous and Attorney Gerber read Ordinance #100 by short title:

"An ordinance allowing certain types of hunting and trapping within the City; providing a penalty; and repealing ordinance No. 33."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of Ordinance #100.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero and R. Donaghey.  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the first reading of Ordinance #103 by short title only. The voting was unanimous and Attorney Gerber read the ordinance by short title:

"An ordinance prescribing initiative and referendum procedures; providing a penalty; and repealing Ordinance No. 36."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the first reading of Ordinance #103.

AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero and R. Donaghey.

NAYE: none

Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the second reading of ordinance #103 by short title and declare an emergency. The voting was unanimous and Attonrey Gerber read Ordinance #103 by short title:

"An ordinance prescribing initiative and referendum procedures; providing a penalty; and repealing Ordinance No. 36."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of Ordinance #103 by short title and declare an emergency.

AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, R. Donaghey.

NAYE: none

Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the first reading of Ordinance #104 by short title only. The voting was unanimous and Attorney Gerber read Ordinance #104 by short title:

"An ordinance establishing a park and recreation commission for the City; describing its duties; and repealing Ordinance No. 78."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the first reading of Ordinance #104.

AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero and R. Donaghey.

NAYE: none

Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the second reading of Ordinance #104 by short title only and declare an emergency. The voting was unanimous and Attorney Gerber read Ordinance #104 by short title:

"An ordinance establishing a park and recreation commission for the City; describing its duties; and repealing Ordinance No. 78."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of Ordinance #104 and declare an emergency.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, and R. Donaghey.  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the first reading of Ordinance #105 by short title only. The voting was unanimous and Attorney Gerber read Ordinance #105 by short title:

"An ordinance prescribing methods and procedures for making local improvements; for levying and collecting special assessments; for levying and collecting special assessments; for the creation and enforcement of assessment liens; and repealing Ordinance No. 44."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the first reading of Ordinance #105.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, R. Donaghey.  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the second reading of Ordinance #105 and declare an emergency. The voting was unanimous and Attorney Gerber read Ordinance #105 by short title:

"An ordinance prescribing methods and procedures for making local improvements; for levying and collecting special assessments; for levying and collecting special assessments; for the creation and enforcement of assessment liens; and repealing Ordinance No. 44."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of Ordinance #105 and declare an emergency.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman,  
R. DePiero, R. Donaghey.  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the first reading of Ordinance #106 by short title only. There was council discussion of Section 2 regarding repair and maintenance of equipment on the streets of the City. The council thought that there might be times in an emergency when equipment might break down on the streets and emergency repairs may be needed to get the equipment moving again. It was decided to add the words, "except in an emergency." following ". . .on the streets of the city," in Section 2.

E. Fillman withdrew his motion and N. Johnson withdrew her second.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the first reading of Ordinance #106 by short title only with the changes inserted in Section 2 as described above. The voting was unanimous and Attorney Gerber read Ordinance #106 by short title:

"An ordinance regulating the use of City streets by heavy equipment and lug vehicles; regulating repair of construction and logging equipment on public streets; requiring permits to perform excavations within City right-of-way; providing a penalty; and repealing Ordinances No. 72 and 82."

B. Stocking pointed out that this Ordinance specifies that a permit fee is required. Attorney Gerber will draft a resolution establishing the fee for the January meeting.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the first reading of Ordinance #106 with corrections.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman,  
R. DePiero, R. Donaghey.  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the second reading of Ordinance #106 with corrections and declare an emergency. The voting was unanimous and Attorney Gerber read Ordinance #106 by short title:

"An ordinance regulating the use of City streets by heavy equipment and lug vehicles; regulating repair of construction and logging equipment on public streets; requiring permits to perform excavations within City right-of-way; providing a penalty; and repealing Ordinances No. 72 and 82."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of Ordinance #106 with corrections and declare an emergency.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero and R. Donaghey.  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the first reading of Ordinance #107 by short title only. B. Stocking said that it would make it easier to find the subject of the ordinance if the words, "regarding solid waste disposal" could be inserted into the title. Attorney Gerber said that those words would be inserted following "No. 88;" in line two of the title. The voting was unanimous, and Attorney Gerber read Ordinance #107 by short title:

"An ordinance deferring the effective date of Ordinance No. 88 regarding solid waste disposal; continuing the effectiveness of Ordinance No. 38; resolving conflicts between Ordinances No. 88 and 38; amending Ordinance No. 38; repealing ordinance No. 87; and declaring an emergency."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the first reading of Ordinance #107 with the changes.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, R. Donaghey.  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the second reading of Ordinance #107 accepting the changes and declaring an emergency. The voting was unanimous, and Attorney Gerber read Ordinance #107 by short title:

"An ordinance deferring the effective date of Ordinance No. 88 regarding solid waste disposal; continuing the effectiveness of Ordinance No. 38; resolving conflicts between Ordinances No. 88 and 38; amending ordinance No. 38; repealing Ordinance No. 87; and declaring an emergency."

**ACTION** A motion was made by E. Fillman and seconded by n. Johnson to accept the second reading of Ordinance #107 accepting the changes and declaring an emergency.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, R. Donaghey  
NAYE: none  
Motion carried.

The council discussed Ordinance #108 regarding nuisances. The council discussed removing the words, "other than a dog" from Section 4. Dangerous Animals. D. Eastman asked if, under Section 13 of the ordinance, the City would be liable for costs incurred of towing a vehicle away. There was also considerable discussion of Section 26 (2) and (3) concerning noise and the stated distances to determine nuisances. In Section 21 (2) the council discussed "reasonable time" and what would be considered to be a reasonable time and who would determine it. It was decided to insert the words, "as set by the City" in Section 21 (2). In Section 33 (1) it was decided to add the words, "Section 33" before "subsection 2" for clarification. The word "cause" will be added in Section 33 (5) following the words "good and sufficient".

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the first reading of Ordinance #108 by short title only with the corrections as accepted and outlined above. The voting was unanimous. Attorney Gerber outlined the changes and read Ordinance #108 by short title:

"An ordinance defining nuisances; providing for their abatement; providing penalties; and repealing ordinances No. 13, 51, and 51-1210."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the first reading of Ordinance #108 by short title with corrections as accepted.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero, R. Donaghey  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the second reading of Ordinance #108 by short title, incorporating the corrections, and declaring an emergency. The voting was unanimous, and Attorney Gerber read Ordinance #108 by short title:

"An ordinance defining nuisances; providing for their abatement; providing penalties; and repealing ordinances No. 13, 51, and 51-1210."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of Ordinance #108 by short title, incorporating the changes, and declaring an emergency  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero and R. Donaghey  
NAYE: none  
Motion carried.

The council discussed public nudity as defined in proposed Ordinance #109. The consensus of the council was that it would like to also prohibit nude dancing. The attorney advised that Ordinance #109 would probably not prohibit nude dancing and that he did not know of any ordinances that had been passed by other cities that had stood when challenged in court. There were other attorneys present in the audience who concurred with Mr. Gerber's statement. Gary Darnielle from LCOG testified that it is possible to prohibit nude dancing through zoning. Attorney Gerber said that he would draft something for the council to consider at the January meeting that would regulate nude dancing.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the first reading of Ordinance #109 by short title. The voting was unanimous, and Attorney Gerber read Ordinance #109 by short title:

"An ordinance prohibiting public nudity; providing a penalty; and repealing Ordinance No. 56."



**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the first reading of Ordinance #109 by short title.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero and R. Donaghey  
NAYE: none  
Motion carried.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to have the second reading of Ordinance #109 by short title only and declare an emergency. The voting was unanimous, and Attorney Gerber read Ordinance #109 by short title:

"An ordinance prohibiting public nudity; providing a penalty; and repealing Ordinance No. 56."

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to accept the second reading of Ordinance #109 by short title and declare an emergency.  
AYE: D. Eastman, N. Johnson, R. Petersdorf, E. Fillman, R. DePiero and R. Donaghey  
NAYE: none  
Motion carried.

R. Petersdorf closed the public hearing at 9:05 PM. It was determined that Draft Ordinance #110 about lake access had not been advertised for a first reading.

**ACTION** A motion was made by R. Donaghey and seconded by R. DePiero to accept the language as drafted for Ordinance #110 and to have the first reading at the January city council meeting. The voting was unanimous, and the motion carried.

**C. Suggested Improvements for Planning Coordination.** R. Petersdorf opened the public hearing at 9:06 PM on suggested improvements for planning coordination. Jim Mann from the Lane County planning staff was present and explained key points with the sections of Appendix "A" - Suggested Amendments for Subdivision and Partition Access - Dunes City as revised 12/3/86. He thought the revisions would improve the Dunes City Subdivision Ordinance. The revision had occurred at a Dunes City Planning Commission meeting December 3 in which the planning commissioners had gone over the Appendix "A" section by section. Reference to a master road plan for Dunes City had been made at that meeting. G. Darnielle announced at this meeting that Roy Burns, Lane County Planner, is exploring the possibility of a county grant and using LCOG transportation staff to help Dunes City develop a master road plan. The public hearing was closed at 9:15 PM. Attorney Gerber will

draft an ordinance for a first reading at the January meeting for amending the Subdivision Ordinance and incorporating the revised Appendix "A" as submitted.

The meeting was recessed at 9:25 PM.

The meeting was reconvened at 9:35 PM.

**D. Minor Partition - Doug Hickman.** R. Petersdorf opened the public hearing at 9:35 PM on the Minor Partition request of Doug Hickman. Attorney Tom Nicholson, representing Mr. Hickman explained the partition and discussed the Planning Commission's approval and suggested conditions. He said that Mr. Hickman had not submitted an overall conceptual plan because Mr. Hickman has no plans to further divide parcel 1, and the potential buyer for the southerly parcel 2 plans to build a home for himself on the land and plans no further partitioning. There was discussion of requiring a dedicated easement of some type along the southerly boundary of parcel 2 abutting a road in the Tsiltcoos Lake Club Plat so that in the future if the streets are ever made public the street might be widened to a standard street width and would be in alignment with Hilltop Drive at Clear Lake Road. Council discussion favored waiting until parcel 2 is further divided, if ever, before requiring an easement along the southern boundary of the parcel since both parcel 1 and parcel 2 have direct access off Clear Lake Road. There was no further testimony for or against the partition, and the public hearing was closed at 9:55 PM.

**ACTION**

A motion was made by R. DePiero and seconded by N. Johnson to approve the minor partition request of Doug Hickman for Marvel Hickman, accepting the Planning Commission's Findings of Fact and Conclusions of Law and with the following conditions as amended:

1. That site inspections for sewage feasibility be performed for both parcels.
2. That an overall conceptual plan will be submitted if the buyer decides to further divide the southerly 10+ acres.

The voting was unanimous, and the motion carried.

- E. Conditional Use Permit - Valere Brandt.** R. Petersdorf opened the public hearing at 9:55 PM on the request of Mr. Valere Brandt to have a horse and a mule on property he plans to buy. Mr. Brandt and his nephew were present to answer questions. Attorney Gerber advised the council to reword the Planning Commission's condition 1. if it approves the request and accepts the conditions. He suggested that it be reworded to read, "That the Conditional Use Permit may be revoked if it becomes a public nuisance."

Ruby Chapman, a realtor who has been working with Mr. Brandt on the purchase of the property, asked what would be considered a nuisance. Attorney Gerber advised that nuisances are spelled out in the ordinance the council approved earlier in the meeting, and she could receive a copy of the ordinance from the City. He further explained that if the animals became a nuisance, Mr. Brandt would be advised that they were a nuisance and would be given a chance to correct the problem before the Conditional Use Permit would be revoked. The public hearing was closed at 10:05 PM.

**ACTION** A motion was made by D. Eastman and seconded by N. Johnson to approve the Conditional Use Permit request of Mr. Valere Brandt to have a horse and a mule on property he plans to buy in a residential area accepting the Planning Commission's Findings of Fact, Conclusions of Law and with the following condition:

1. That the Conditional Use Permit may be revoked if it becomes a public nuisance.

The voting was unanimous, and the motion carried.

- F. Conditional Use Permit - Harold Young.** R. Petersdorf opened the public hearing at 10:05 PM on the request of Mr. Harold Young for a Conditional Use Permit to replace an existing mobile home with another mobile home in a residential area. There was no further testimony for or against the application other than Mr. Young's statement of intent and the public hearing was closed at 10:09 PM.

**ACTION** A motion was made by E. Fillman and seconded by N. Johnson to approve the Conditional Use Permit request of Mr. Harold Young to replace an existing mobile home with another mobile home in a residential area and to accept the Planning Commission's Findings of Fact, Conclusions of Law and the conditions:

1. That the mobile home will be skirted and will be installed according to all state, county and city codes.
2. That the mobile home will conform to the criteria mentioned in the Planning Commission's Findings of Fact.

The voting was unanimous, and the motion carried.

**G. Road Permit - To extend 400 feet of Salal Road.** R. Petersdorf opened the public hearing at 10:10 PM on the request of Ruth J. Wood for a road permit to extend approximately 400 feet of Salal Road to her property. Mrs. Wood testified that she would like to build a home on property she owns. Lane County's maps show Salal Road as ending at her property line. However, the northern 400+ feet of Salal have not yet been completed. Mrs. Wood applied for a road permit to open these 400+ feet. The road permit was denied administratively at the request of the City Attorney since an adjacent neighbor built a driveway into the dedicated road right-of-way and there is a question as to whether or not the land is still a roadway. Mrs. Wood's public hearing was an appeal of that administrative decision.

Mrs. Wood testified that Salal was a deeded public street that was part of Lane County until the area was incorporated as Dunes City and is now under the jurisdiction of Dunes City. Mrs. Wood testified that her attorney could not be present at this meeting, but that he had been in contact with the state Attorney General's office who had advised that a public road or access cannot be closed or re-deeded and that an easement on public land cannot be changed by title. She said that the Attorney General's office had sent her a brief regarding these things.

Mrs. Wood testified that she had no other access to her lot. Mrs. Wood said that 33 feet had been deeded for the road, but that she would not have to have a road 33 feet wide for access to her property. She submitted just prior to the meeting copies of statements of people who had used the road prior to the time the neighbors driveway had been built into the roadway and effectively closed it to further traffic.

R. Petersdorf testified that Mr. Foss knew the driveway was in the roadway when he built the driveway. Mrs. Wood said that Mr. Foss, Sr. knew the driveway was in the roadway when his son built it and attempted to purchase a strip of adjacent land so that the roadway could be relocated, but that negotiation failed.

Attorney Gerber advised that his advice to the council was spelled out in his memorandum which is attached with these minutes. He advised that if the City issues the road permit and it is determined that the deed reversal giving deed to the land that was once Salal to the new owner of the property, Dr. Jeremy Orcutt, is valid, the City may be sued for damages. He had, therefore, advised that the City deny the permit until Mrs. Wood could prove by a court declaration that the road is still valid. Attorney Gerber said that he would be happy to review the information Mrs. Wood had received from the Attorney General's office. Attorney Gerber said that the issue is whether or not the deed Dr. Orcutt received from Mr. Foss a valid transfer. If it isn't, then Salal is still a valid right-of-way and there should be no reason why it could not be opened. However, if the deed is a valid conveyance, then she has no right to open the road to her property.

Bob Merz, a neighbor, confirmed Mrs. Wood's statement that the road had been used in the past by the Forest Service and others.

Attorney David Clark, representing McKenzie Title Company, asked that the road permit be denied because, in their opinion, Mrs. Wood does not have verifiable proof that Salal is still a public road. Mrs. Wood said in rebuttal that she and other private individuals and businesses had used the road since 1953 until it was closed by Mr. Foss' driveway.

Mrs. Wood said that she had had the land surveyed, and two days later when they went back the stakes had been removed. Attorney Gerber said that it is a misdemeanor to remove survey stakes.

The public hearing was closed at 10:50 PM.

R. DePiero asked if he made a motion to approve the road permit subject to Mrs. Wood receiving a declaration from the court that it is still a road, would the City be at risk. Attorney Gerber said the City could approve it without issuing the permit until Mrs. Wood submits proof through a declaratory judgement from the court that Salal is still a public right-of-way.

R. DePiero said that he thought that approving the road permit subject to a judgement from the court would show Mrs. Wood that the City believes a person is entitled to have access to his/her property.

Attorney Gerber asked for permission to recess the meeting for an Executive Session so that he could discuss with the council the possibilities of "legal exposure".

The meeting was recessed at 10:55 PM for an Executive Session to discuss legal possibilities.

The meeting was reconvened at 11:00 PM. R. Petersdorf gave Attorney Clark and Mrs. Wood each the chance to offer rebuttal testimony because of the interruption.

David Clark testified that if the council approved the road permit, it would cloud Dr. Orcutt's title, and he was sure the McKenzie Title Company would resist that. Mrs. Wood said that Lane County had told her that a deed may be recorded and still be in error.

#### **ACTION**

A motion was made by R. DePiero and seconded by R. Donaghey that the City approve the road permit to extend 400 feet of Salal from its present terminus at Dr. Orcutt's property to its northern terminus at Mrs. Wood's property line subject to Mrs. Wood delivering to the City Council for its inspection and approval a valid court order which in essence determines that she has a right to open up this road because of prescriptive easement or public ownership or other reason.

The voting was unanimous, and the motion carried.

#### **VII. REPORTS**

**A. Election Results.** B. Stocking had received the certified election results from Lane County and distributed Certificates of Election to the mayor and council members who had been elected in the November election.

**B. Siltcoos Lake Resort.** It was reported that the conditions imposed upon Siltcoos Resort for approval of its sign permit had been taken care of.

VIII. UNFINISHED BUSINESS

- A. **Draft Ordinances.** The council discussed the proposed ordinance clarifying setback requirements for front yards.

**ACTION** A motion was made by D. Eastman and seconded by N. Johnson to approve the language as presented for Ordinance #112 - An amendment to Ordinance No. 50 clarifying setback requirements for front yards. This ordinance will be presented for a first reading in January.

There was a discussion of the proposed ordinance amending Ordinance No. 50, granting the city council authority to waive conditional use permit requirements regarding chickens, ducks, rabbits and other fowl. This will become Ordinance #113 and will be heard for a first reading in January. B. Stocking pointed out the conflict with the language in Section 1 concerning 1-acre lots. That language was deleted. That sentence will now read, "The City Council has determined that the owning of small numbers of ducks, chickens. . ."

**ACTION** A motion was made by R. DePiero and seconded by R. Donaghey to use the number "14" in the accompanying resolution specifying the number of animals allowed.

AYE: R. Petersdorf, D. Eastman, R. DePiero and R. Donaghey

NAYE: N. Johnson, E. Fillman

Motion carried and the resolution will be advertised for a first reading at the January meeting.

There was considerable discussion of the proposed ordinance regulating heavy industrial use of the city streets. There was a discussion of axle weight limits. R. Petersdorf suggested that further discussion be tabled until January and have R. DePiero check with the P.U.C. in the meantime for axle weight limits. This will be advertised for a first reading in January and will be Ordinance #114.

**ACTION** A motion was made by D. Eastman and seconded by N. Johnson to accept the wording of draft Ordinance #114 with the corrections as discussed. Motion carried.

**ACTION** A motion was made by N. Johnson and seconded by D. Eastman to extend the meeting since it was 11:40 PM. Motion carried.



**IX. NEW BUSINESS**

**A. Holiday Closure Calendar.**

**ACTION** A motion was made by N. Johnson and seconded by R. Donaghey to accept the 1987 Holiday Closure Calendar as presented by the office staff. A copy of the calendar is attached with these minutes. Motion carried.

**B. Planning Commission Appointment.**

**ACTION** A motion was made by N. Johnson and seconded by E. Fillman to accept the recommendation of the Planning Commission and appoint Mr. Harold Young to fill the unexpired term of Mr. Phil Nichols who has resigned from the Planning Commission. Motion carried. Mr. Young's term will expire December 31, 1986. The secretary pointed out that the Planning Commission had requested that Mr. Young be appointed to another three-year term as well. The council thought that the next council should re-appoint Mr. Young. Attorney Gerber advised that as a matter of protocol it would be best to let the new council re-appoint Mr. Young to an additional term.

**C. 1986 Audit Report.**

**ACTION** A motion was made by N. Johnson and seconded by R. DePiero to accept the 1986 audit report of the Gregor Corporation. Motion carried.

B. Stocking mentioned that the City had received a request from Gregor Professional Corporation to do the audit for the City again next year. The fee would be \$1,704.00 for next year. B. Stocking said that the fee for this year had been \$1,589.00. The City had budgeted \$1,600. B. Stocking was advised to write to the Gregor Corporation and to tell them that the City had only budgeted \$1,600.

**D. Northwest Bass Club.** N. Johnson announced that she had been approached by the Northwest Bass Club with a request to install a glass case in the Dunes City Community Center to use for a trophy case. They had promised that it would be a quality built case. N. Johnson had asked what would happen to the case if the Bass Club ever ceased using the Community Center. They assured her that the case would become the property of the City. They realized that the place they wanted to install the case was where the chairs are stored for the City building. It was suggested that the case be wall-mounted above the chairs.

**ACTION**

A motion was made by N. Johnson and seconded by R. Donaghey to notify the Northwest Bass Club that the City would like the club to submit a sketch of the proposed trophy case that would be wall-mounted above the chairs in the Dunes City Community Center. The voting was unanimous and the motion carried.

B. Stocking asked about increased insurance. She said that if having the trophy case in the Community Center would increase the City's insurance, the Bass Club would have to pay the increased amount. N. Johnson said that the club had told her that it would not hold the City liable for any loss. The attorney advised that they should submit a letter to the City absolving the City of any liability in case of loss.

E. **Minor Partition - Bob Merz.** Attorney Gerber advised the council of a transaction Mr. Bob Merz is considering subject to Minor Partition approval. Mr. Merz has a buy for a portion of a lot he owns. The buyer wishes to purchase the property before the end of the year. Mr. Merz has had the paperwork drawn up by an attorney that would allow the property and money held in escrow to revert to the original owners if the minor partition is not approved. Mr. Gerber had reviewed the paperwork and said that he saw no problem with what Mr. Merz was proposing to do; the "unwind clause" seemed to be in order. The council had no objection to the procedure Mr. Merz had outlined.

F. **Conditional Use Permit - Howard Brusseau.** The council had not received a letter as of this date from Lane County Sanitarian Mr. Cruikshank. The City's secretary had talked with Mr. Cruikshank's supervisor, Stan Petrasek, the previous day. Mr. Petrasek said that he had visited the site of Mr. Brusseau's mobile home, and recommended that the septic system be moved to the front of the lot to avoid the potential hazard of a failing system polluting a water system south of the lot. He had instructed Mr. Cruikshank to write a letter to that effect to the City. The City had not received the letter by the date of this council meeting.

Attorney Gerber advised that the Conditional Use Permit be revoked as of December 15 and a notice posted on the property that Mr. Brusseau must reapply for a Conditional Use Permit since he had not met the conditions of his Conditional Use Permit. The City should further advise

Bob Petersdorf

BOB PETERSDORF

cannot Pres.  
election

Carlyle Eastman

Fallman missing  
Voted for Bob

H. B. Fittman

Petersdorf

Red DePina

BOB  
sp

Bob P.

Roy Donaghy

Bob

ND

Mr. Brusseau that it will not approve the Conditional Use Permit with the drainfield as outlined in his first application and that he should check with Lane County about relocating the drainfield.

X. ADJOURNMENT

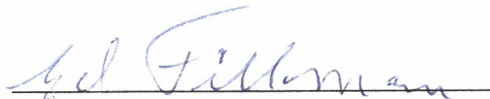
The meeting was adjourned at midnight.

  
R. PETERSDORF

  
SECRETARY K. BACON

  
N. JOHNSON

  
D. EASTMAN

  
E. FILLMAN

  
R. DE PIERO

  
R. DONAGHEY

M E M O

TO: DUNES CITY COUNCIL MEMBERS  
FROM: CITY OFFICE STAFF  
DATE: DECEMBER 4, 1986  
SUBJECT: 1987 HOLIDAY CLOSURE CALENDAR

At this meeting, we should consider the 1987 calendar for office holiday closures. The following are the dates the office was closed in 1986:

January 1 ---- New Year's Day  
May 26 ----- Memorial Day  
July 4 ----- Independence Day  
September 1 -- Labor Day  
February 17 -- Presidents Day  
November 28 -- Thanksgiving Day (Friday)  
December 26 -- Christmas (Friday)

We would like to request the following days for 1987:

January 2 ---- New Year's (Friday)  
February 16 -- President's Day  
May 25 ----- Memorial Day  
September 7 -- Labor Day  
October 12 -- Columbus Day  
November 11 -- Veteran's Day  
November 27 -- Thanksgiving (Friday)  
December 25 -- Christmas (Friday)

We have added Veteran's Day and Columbus Day this year and removed Independence Day since it comes on a Saturday. A check of Florence City Hall revealed that they will be closed Memorial Day; Friday, July 3 for Independence Day, Labor Day, Veteran's Day, Thanksgiving and Christmas and New Year's Day.

D. RONALD GERBER, P.C.

Attorney At Law

1932 Pine Street  
Post Office Box 0  
Florence, Oregon 97439  
Telephone (503) 997-8285

MEMORANDUM

TO: Dunes City

FROM: D. Ronald Gerber  
City Attorney

RE: Ruth Woods road application

DATE: November 18, 1986

This memorandum confirms my instructions to Kay Bacon regarding the Ruth Wood road application. I instructed her to deny Mrs. Wood's application.

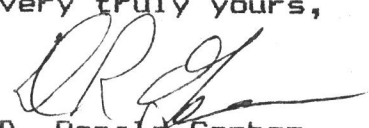
The reason for that is there appears to be a bonafide dispute as to whether or not this is in fact public property. Therefore, it would be inappropriate for the city to issue a road permit until Mrs. Wood has removed the cloud placed upon this "road" by Mr. and Mrs. Orcutt. That could be done by agreement, or by litigation, or possibly by other means.

Until is it definitely established that it is a roadway, or property dedicated to the public for purposes of ingress and egress, it would be inappropriate to issue such a permit. The city may well find itself liable.

In the event Mrs. Wood initiates litigation against the city, it would be my suggestion that we interplead Mr. and Mrs. Orcutt and simply file pleadings saying if the Court determines that it is a road, the city will issue the permit, if it isn't a road we won't.

This appears to be the wisest course of action with the least exposure available to the city. Thank you for your attention to these matters.

Very truly yours,

  
D. Ronald Gerber  
Attorney at Law

DRG/jm

NOV 19 1986