



**CITY COUNCIL MEETING MINUTES ~ APPROVED
FEBRUARY 12, 2020 AT 6:00 PM**

City Hall ~ 82877 Spruce St., Westlake, OR

These proceedings of the Dunes City Council were recorded and are on file at Dunes City Hall. Upon approval by the City Council, these minutes will be available online at www.DunesCity.com

1. CALL TO ORDER

Council President Sheldon Meyer called the Wednesday, February 12, 2020, meeting of the Dunes City Council to order at 6:00 pm.

2. ROLL CALL

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

Present: Council President Sheldon Meyer, Councilor Duke Wells, Councilor Alan Montgomery, Councilor Susan Snow, and Councilor Tom Mallen.

Absent and Excused: Mayor Robert Forsythe and Councilor Robert Orr.

Also Present: Planning Secretary Rapunzel Oberholtzer and several Dunes City residents.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

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

5. APPROVAL OF THE CONSENT AGENDA

City Administrator/Recorder Mills reported that the Bills of the Session should be amended to include an invoice that was received earlier in the day from Richard Palmer in the amount of \$1,077.50 for equipment rental.

Councilor Snow made a motion to approve the Consent Agenda with amended Bills of the Session. Councilor Mallen seconded the motion. The motion passed by unanimous vote.

6. ANNOUNCEMENTS / CORRESPONDENCE

Council President Meyer read from the list of announcements on the Agenda:

- A. Dunes City has one opening for appointment to the Planning Commission for the term ending January 12, 2022, and two openings on the Budget Committee.

City Administrator/Recorder Mills read from the list of announcements:

- B. Dunes City is seeking job applicants for a part-time position to attend evening meetings and to transcribe and prepare the minutes of those meetings, and other related activities.

City Administrator/Recorder Mills went on to announce that the City's Permit Tech, Jazilynn Kinyon, tendered her resignation with a two-week notice. Mrs. Mills reported that she would submit Help Wanted ads for both job openings to *The Siuslaw News*. She also announced that on March 15, beginning at 6:00 pm, there will be an Eagle Scout Court of Honor at the LDS Church to recognize new Eagle Scouts Jeff Edman and Kyle Hughes. The public is invited to attend.

7. CITIZEN INPUT ON ITEMS NOT DISCUSSED IN PUBLIC HEARING

There was none.

8. PRESENTATIONS/TRAINING

- A. US Census Bureau Representative Presentation

There was none.

9. OLD BUSINESS

- A. Resolution Series 2020, No. 1 – Adopting Personnel Policy Handbook

City Administrator/Recorder Mills referred Councilors to a copy page 46 of the Handbook on which the redline change to Section VI (Termination of Employment) was illustrated. She explained that, pursuant to a request from the Council in the January meeting, she revised item A(6) to follow ORS 166.260 allowing certain individuals to carry firearms on City premises.

Councilor Snow made a motion to adopt the Personnel Handbook as amended. The motion was seconded by Councilor Montgomery and passed by unanimous vote.

- B. Set Goals for 2020-2021 Fiscal Year

City Administrator/Recorder Mills referred Councilors to a copy of the list of goals sorted by category that was included in their meeting packets. She explained that she included

cost estimates, whenever they were available. She noted that after preparing the list she learned that the estimated cost to file an extension of the City's water right permit and certificate the rights was about \$75,000, and the estimated cost to improve the front office window security was \$6,000-\$10,000.

City Administrator/Recorder Mills also explained that she would like the Council to prioritize and adopt the Goals before the FY 2020-2021 budget process begins. Councilors asked her to update the list as quotes come in and keep them updated.

Councilors agreed to schedule a Goal Setting Session to review the list on Wednesday, February 26, beginning at 6:00 pm.

C. Status of Property Acquisition for Rebecca's Trail

City Administrator/Recorder Mills reported that the acquisition is moving forward. The sale is in escrow and expected to close later this month.

D. Ordinance No. 253 –Revising Title XV, Chapter 153, Flood Damage Prevention Code, First Reading

Council President Meyer announced:

“A proposed ordinance requires two readings before it is enacted. Dunes City Charter Section 34(3) provides that both readings may be read by title only: if no Council member present at the meeting requests it be read in full, or if a copy of the ordinance is provided for each Council member and all requirements for posting and advertisement have been met.”

Council President Meyer asked if all requirements for posting and advertising had been met. City Administrator/Recorder Mills replied that they had.

Council President Meyer asked if any Councilor desired that the ordinance be read in full. Councilor Mallen requested that discussion be tabled as he had not had an opportunity to read the full content of the proposed ordinance. Discussion ensued, during which City Administrator/Recorder Mills pointed out that the City had a deadline to adopt the new Code and, if the deadline was not met, the City would be prohibited from participate in FEMA's Flood Insurance Program. She went on to explain that the City is required to follow FEMA regulations for building in flood zones and the new Code outlines the specific rules the City must follow.

There was some discussion among the Councilors about whether FEMA could mandate the City to perform required permitting and reporting procedures and whether FEMA could deny City residents flood insurance if the City did not adopt the new Code.

Councilor Mallen made a motion to table discussion. Councilor Montgomery seconded the motion.

There was some discussion about the effect of postponing the public hearing and, if by doing so, the City would be able to adopt the proposed, or amended, language in time to meet the June deadline. City Administrator/Recorder Mills pointed out that the language that was presented to the Council had been approved by FEMA and could not be changed, according to FEMA representatives.

Council President Meyer called for a vote on the motion by Councilor Mallen. In a show of hands, there was one vote in favor of tabling discussion and three against.

City Administrator/Recorder Mills suggested a roll call vote for the record. Councilor Mallen voted in favor of the motion, Councilors Snow, Montgomery and Wells voted in opposition to the motion. The motion to table discussion failed.

Councilor Snow made a motion to read Ordinance No. 253 by title only. Councilor Wells seconded the motion and the motion passed by unanimous vote.

Council President Meyer read aloud the title of Ordinance No. 253:

“An ordinance repealing previous flood plain ordinances, adopting flood hazard regulations, and declaring an emergency.”

10. PUBLIC HEARINGS

A. Ordinance No. 253 – Revising Title XV, Chapter 153, Flood Damage Prevention Code

Council President Meyer announced, “This evening we have a public hearing on proposed Ordinance Number 253, an ordinance to amend language in Title XV, Chapter 153 of Dunes City Code, in order to incorporate FEMA’s new language requirements. These proceedings will be recorded.

“This hearing will be held in accordance with the land use procedures required by the City and the State of Oregon. This is a Type IV, Legislative Procedure.

“Staff will identify the applicable substantive criteria which have been listed in the staff report. These are the criteria the Council must use in making its decision and recommendation. All testimony and evidence must be directed toward these criteria, or other criteria which you believe apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the City and parties involved an opportunity to respond to the issue would preclude an appeal to the Oregon Land Use Board of Appeals based on that issue.

“Any party interested in a land use matter may challenge the qualification of any Councilor to participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a Councilor’s bias, prejudgment, conflict of interest, or other facts from which the challenging party has concluded that the Councilor will not make a decision in an impartial manner.”

Council President Meyer asked if any member of the public wished to challenge a Councilor's impartiality. No one did.

Council President Meyer asked if any Councilor wished to declare a conflict of interest, bias or ex-parte contact. None did.

Council President Meyer opened the public hearing for Ordinance No. 253 at 6:47 pm and asked for the staff report.

City Administrator/Recorder read the staff report into the record.

"Ordinance 253 amends the language of Chapter 153 of Title XV of the Dunes City Code entitled 'Flood Damage Prevention' by amending language to reflect current federal and State laws, rules and regulations.

"In June of 2016, the US Department of Homeland Security, FEMA Region 10, contacted then Mayor Rebecca Ruede to request participation by the City in revisions to the Flood Insurance Rate Maps (FIRMs) and updates to local regulations regarding floodplain management in an effort to meet Court Ordered mandates in a lawsuit that had been filed against FEMA by the Audubon Society of Portland, the National Wildlife Federation, the Northwest Environmental Defense Center, and the Association of Northwest Steelheaders for failure to consult with them on certain species listed as endangered in the State of Oregon with respect to implementation of the National Flood Insurance Program.

"On August 16, 2016, FEMA presented the proposed new flood maps to City Staff at City Hall and asked staff to make comments and recommend corrections in an effort to have accurate information contained on the maps. Over the next two years, staff consulted and met with FEMA staff in an effort to ensure maps accurately reflected reality.

"On September 18, 2018, FEMA held an open house at the Florence Events Center to release the proposed new maps to local residents for their consideration and comments. Residents had a period of 90 days within which to file appeals of the data. FEMA then resolved all of the changes and appeals filed and expected to release its Letter of Final Determination in December of 2019.

"The date of the Letter of Final determination starts the clock running for the City to adopt the new Flood Insurance Rate Map and new Codes, policies, forms, and regulations for implementing its floodplain management program to incorporate the new data and meet any additional requirements. Failure of the City to adopt the new map and implement new regulations for floodplain management results in the loss of the opportunity for property owners in the City to purchase flood insurance protection.

"FEMA issued its Letter of Final Determination on December 5, 2019. Because flood damage prevention codes are land use codes, amendments to these codes must first go to the Citizens Advisory Committee for review and comment, and then be heard at publicized public hearings before the Planning Commission and the City Council. The Citizens Advisory Committee fi-

nalized its review of the proposed language and made recommendation to the Planning Commission in 2019. The Planning Commission held a public meeting on January 23, 2020, to review the proposed Code language.

“Dunes City’s Code requires a 45-day notice to the Oregon Department of Land Conservation and Development (DLCD) prior to a public hearing on land use code revisions, and the City must meet the mandates of Measure 56 notice to those property owners potentially affected by the action. The initial notice of hearing was issued March 4, 2019, however that hearing was cancelled and was rescheduled to January 23, 2020. An updated Notice was sent to DLCD on December 4, 2019.

“Publication of the Notice of public hearings at the Planning Commission and City Council occurred on January 4, 2020, and January 8, 2020, and on December 18, 2019, notices were mailed to the owners of property in Dunes City located in a FEMA flood zone.

“Various members of Dunes City Staff have reviewed the draft language presented and worked with FEMA representatives to ensure the provisions have been reviewed and are approved by FEMA. In its meeting on January 23, 2020, the Planning Commission voted unanimously to recommend that the City Council approve the Ordinance No. 253 language as presented and adopt the new flood map for Dunes City.”

Council President Meyer asked if any Councilors had questions for Staff. Councilor Mallen asked City Administrator/Recorder Mills to send him an electronic version of the new map.

Council President Meyer announced that the Council would take testimony from anyone who wished to testify and asked residents present in the audience to sign the request for recognition sheet.

Mr. Rory Hammond expressed concern about not being able to purchased flood insurance if the proposed Ordinance was not adopted and pointed out that any construction in the flood zone would have to meet certain FEMA building requirements, as outlined in the proposed Ordinance. He noted that if the Ordinance was not adopted, residents would not know what the building requirements are.

Council President Meyer asked for testimony from those in favor of the Ordinance. There was none. He asked for testimony from those opposed to the Ordinance. There was none. He closed the public hearing at 6:57 pm and resumed the regular session.

11. NEW BUSINESS

A. Ordinance No. 253 – Revising Title XV, Chapter 153, Flood Damage Prevention Code

Council President Meyer announced that he would entertain motions to change the language of the staff report. There were none. He asked for motions to change the language of the proposed Ordinance as presented. There were none.

Councilor Snow made a motion to have the second reading of Ordinance Number 253 by title only. Councilor Wells seconded the motion. The motion passed by unanimous vote.

Council President Meyer read aloud the title of Ordinance No. 253, “An ordinance repealing previous flood plain ordinances, adopting flood hazard regulations, and declaring an emergency.”

Councilor Snow made a motion to accept the language of the Ordinance as presented. Councilor Montgomery seconded the motion. In a roll call vote, the motion passed with Councilors Snow, Montgomery and Wells voting in favor and Councilor Mallen voting in opposition.

Council President Meyer declared Ordinance No. 253 adopted and effective immediately.

B. Resolution Series 2020, No. 2 – Establishing Fleet Safety Program

City Administrator/Recorder Mills referred Councilors to copies of Resolution Series 2020, No. 2, and the Fleet Safety Program language included in their meeting packets.

Councilor Mallen made a motion to approve Resolution Series 2020, Number 2. Councilor Wells seconded the motion.

Councilor Snow raised some concern about the language of the Program, pages four and eleven. There was some discussion during which Councilors agreed to make changes to the language that was presented.

Councilor Snow made a motion to move cell phone and texting violations on page four from Section Two and insert it in Section One, to change Section Two’s 20 miles per hour to 10 miles per hour, and add “Check Fuel” to the checklist on page eleven. Councilor Wells seconded the motion. The motion passed with Councilors Snow, Mallen and Wells voting in favor and Councilor Montgomery voting in opposition.

C. Resolution Series 2020, No. 3 – Adopting Form for Filing Erosion and Sediment Control/Stormwater Management Permit

City Administrator/Recorder Mills referred Councilors to copies of Resolution Series 2020, No. 3, and the proposed Application for Erosion and Sediment Control/Stormwater Management Permit that was included in their meeting packets.

Councilor Wells made a motion to adopt the Resolution and the form attached to it. Councilor Mallen seconded the motion. The motion passed by unanimous vote.

12. EXECUTIVE SESSION

There was none.

13. REPORTS

- A. Mayor's Report: Council President Meyer reminded everyone that the Siuslaw School District's Education Expo will be held at the Florence Events Center on Saturday, February 29.
- B. Community Center Report: Councilor Wells reported that, as weather permits, he will work on repairing leaks in the roof of the City Hall building.
- C. Water Quality Report: Councilor Snow reported that the Water Quality Committee has acquired a second fluorometer and a temperature meter so that both testing groups have their own equipment.
- D. Public Works Maintenance Supervisor's Report: City Administrator/Recorder reported that trees continue to be an issue, especially in the Parkway Drive area.
- E. Emergency Services Report: City Administrator/Recorder Mills referred Councilors to copies of her report to Council that was included in their meeting packets. A COMPLETE COPY OF THE REPORT IS ON FILE AT CITY HALL.
- F. City Administrator/Recorder/Planning/Staff Report: City Administrator/Recorder Mills reported that the City received the final documents relating to the Little Woahink Lake subdivision and staff is reviewing them for completeness and compliance with conditions of approval. She went on to report that dead deer on private property can be buried on the property but the property owner must notify the City and ODFW. She further noted that if a resident witnesses a deer dying from mortal wounds, the resident can call City Hall, and staff will contact someone to dispatch the deer and contact a resource to take the carcass away.

14. FOR THE GOOD OF THE ORDER

Councilor Snow thanked City Administrator/Recorder Mills for preparing the Volunteer Project Wish List. She reported that she has forwarded it to a Boy Scout Troop for consideration.

15. ADJOURNMENT

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

Council President Meyer adjourned the meeting at 7:19 pm.

APPROVED BY THE DUNES CITY COUNCIL ON THE 26^h DAY OF FEBRUARY 2020

[Signed copy available at City Hall]
Sheldon Meyer, Council President

ATTEST:

[Signed copy available at City Hall]
Jamie Mills, City Administrator/Recorder