



**CITY COUNCIL REGULAR SESSION MEETING MINUTES ~ APPROVED
SEPTEMBER 23, 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

Mayor Robert Forsythe called the Wednesday, September 23, 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: Mayor Robert Forsythe, Council President Sheldon Meyer, Councilor Tom Mallen, Councilor Robert Orr, Councilor Duke Wells, and Councilor Susan Snow.

Absent: Councilor Alan Montgomery.

Also Present: Videographer Alan Campbell and several Dunes City residents.

3. PLEDGE OF ALLEGIANCE

Mayor Forsythe led a reciting of the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

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

5. APPROVAL OF THE CONSENT AGENDA

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

6. ANNOUNCEMENTS / CORRESPONDENCE

City Administrator/Recorder Mills read from the list of announcements on the agenda.

- A. Set third town hall meeting on short-term rentals.

Councilors agreed to discuss proposed ordinance language during the regular Council meeting on October 28.

- B. The Woahink Lake Association will sponsor a trash pickup on Canary and Clear Lake Roads on Saturday, October 3. They will meet at 11:00 am at the East Woahink Park. Wear gloves, bring your trash pickers and come help keep our community and water resources clean and safe! For more information, contact John Colwell or Pat Briggs.

City Administrator/Recorder Mills also announced that the City received a letter from the USS Oregon Commissioning Committee. The newest US Navy ship, the USS Oregon, will be commissioned sometime next summer. The Committee is seeking donations to support the commissioning ceremonies. Anyone interested in donating can contact City Hall for details.

7. CITIZEN INPUT ON ITEMS NOT DISCUSSED IN PUBLIC HEARING

There was none.

8. PRESENTATION/TRAINING

There was none.

9. OLD BUSINESS

There was none.

10. PUBLIC HEARINGS

- A. Application for Vacation of a Portion of Helkat Trail from Greg and Jackie Bonham

Mayor Forsythe closed the regular Council meeting and opened the public hearing on the Road Vacation at 6:06 pm. City Administrator/Recorder Mills announced that Ms. Jackie Bonham was attending via teleconference call.

Mayor Forsythe announced that the first public hearing would be on the petition to vacate a portion of Helkat Trail. He asked if any member of the public had comments on the request.

Applicant, Ms. Jackie Bonham, explained that the petitioners are asking the City to vacate a portion of Helkat Trail primarily to preserve the natural environment around a parcel of land on which she and her husband want to build a house. City Administrator/Recorder Mills referred Councilors to copies of an area map that was included in their meeting packets and noted that the owner of several parcels adjacent to the requested vacation area, Mr. Joe Mirvis, was also present at the hearing.

There was some discussion about whether or not other properties adjoining the proposed vacation area would become landlocked. Mr. Mirvis explained that the adjoining parcels had access from Boy Scout Road.

Mayor Forsythe recognized Mr. Mirvis who proceeded to read aloud a March 6, 2020, letter that was submitted to the City by Mr. and Mrs. Bonham. *A COMPLETE COPY OF THE LETTER IS ON FILE AT CITY HALL.*

There was some discussion about whether or not the City might need an easement for City water in the future. Mr. Mirvis explained that any easement could be established on the western edge of the Bonham property. In further discussion, it was generally agreed that the City would have other options for water delivery without going through the Bonham's property. (00:26:30)

B. Application for Conditional Use Permit to Build a Guest House from Dorothy Moors

Mayor Forsythe announced that this is a public hearing on a request for a Conditional Use Permit to build a guest house on a Dunes City lot with an existing residence. He went on to say:

"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 III Quasi-Judicial Procedure.

"Staff will identify the applicable substantive criteria which have also been listed in the Planning Commission's Findings and Recommendation. These are the criteria the City Council must use in making its decision. 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 Appeals Board 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 party has concluded that the Councilor will not make a decision in an impartial manner."

Mayor Forsythe asked if any Councilor wished to declare a conflict of interest, bias or ex-parte contact. None did. Mayor Forsythe asked if any member of the public wished to challenge a Councilor's impartiality. None did.

Mayor Forsythe opened the public hearing on the Conditional Use Permit at 6:30 pm and asked for the Planning Commission report.

City Administrator/Recorder Mills referred Councilors to copies of the Planning Commission's Findings and Recommendation that was included in their meeting packets. She went on to note the Applicable Criteria: A) Dunes City's Comprehensive Plan, B) Dunes City Code of Ordinances regarding Conditional Use Permits, C) Dunes City Code of Ordinances regarding definitions, and D) Dunes City Code of Ordinances regarding the Residential District. City Administrator/Recorder Mills proceeded to read the Planning Commission's Findings and Recommendation into the record. *A COMPLETE COPY OF THE FINDINGS AND RECOMMENDATION ARE ON FILE AT CITY HALL.*

There was some discussion about whether or not the floor plan drawing for the guest house included a kitchen.

Mayor Forsythe asked if Councilors had questions for Staff. Councilor Orr asked if a Conditional Use Permit would be required if applicant simply wished to build an addition on the existing house. City Administrator/Recorder Mills explained that no CUP would be required for an add-on. There was some discussion about the City's policy of limiting development to one residence per lot and whether or not the existing septic system could handle the additional load. City Administrator/Recorder Mills explained that, in this case, the City asked the applicants to obtain an inspection of the site and approval from the County's On-Site Wastewater Management official, which the applicants did. The approval is part of the application included in the Councilors' meeting packets. (00:54:15)

Mayor Forsythe asked the applicants, who were present in the audience, if they wished to add any comments. They did not. Mayor Forsythe asked if any Councilors had additional questions for the applicants. They did not.

Mayor Forsythe asked if anyone present wished to present testimony in favor of the application. He recognized Ms. Bonnie Allen, Chair of the Planning Commission, who explained that the Planning Commission had thoroughly reviewed the application during its public hearing in August. She went on to explain that 1) a guest house is allowed under the City's Conditional Use Permit rules, and 2) the Planning Commission applied a condition of approval that a permanent kitchen could not be installed in the proposed guest house.

Mayor Forsythe asked if anyone wished to testify against the application. No one did. Mayor Forsythe asked if the applicants wished to hold the record open. They did not. He closed the public hearing at 7:04 pm and reconvened the regular session.

11. NEW BUSINESS

A. Application for Vacation of a Portion of Helkat Trail from Greg and Jackie Bonham

Councilor Wells made a motion to direct Staff to move forward with the vacation without conditions other than petitioners would pay the costs referenced in their Letter to the Council. Councilor Orr seconded the motion. The motion passed by unanimous vote.

B. Application for Conditional Use Permit to Build a Guest House from Dorothy Moors

Councilor Orr complimented Staff and the Planning Commission on their thorough report and review of the application.

Councilor Snow noted that the City's definition of "kitchen" did not preclude use of a hot plate or microwave to prepare food. In her opinion the guest house would have a kitchen if those appliances were used. (01:08:13) Mayor Forsythe noted that the floor plan drawing illustrated a space for a pantry and a refrigerator that could easily be converted to a kitchen. He went on to note that he did not oppose guest houses in general but did have concerns about the City's definition of a kitchen. Councilors generally agreed with the Mayor's concern.

During further discussion, Mayor Forsythe suggested that the City needed a better definition for a kitchen.

In additional discussion, there was some discussion about the floor plan drawings. Among the concerns expressed: 1) the area where the pantry is could easily be converted to a kitchen without the City knowing about it, 2) the area where the pantry is located is too big to be a break room for making coffee or warming something in a microwave, and 3) the kitchen area should be downsized.

Mayor Forsythe recognized Mrs. Adams. Mrs. Adams explained that she wanted an adequate, comfortable space to do crafts and projects that she planned to do in her retirement.

Councilor Mallen pointed out that he was told by a building official that a space could have a refrigerator, sink, dishwasher and cooktop but as long as it did not have an oven the space would not be considered a kitchen. (01:21:05) Mr. Welton, the contractor for the project, explained that the area in question plans for a refrigerator and a stacking washer/dryer, the only appliances planned to be installed.

Generally, Councilors agreed that they did not disagree with the project in general but they were concerned about the confusion in City Code about what constituted a kitchen and a guest house.

Councilor Wells made a motion to accept the conditional use application and have Staff move forward. Council President Meyer seconded the motion. The motion passed with four votes in favor and one opposed. (01:32:36)

C. Ordinance Series 2020, Number ___, Re: Relief from Zoning Codes for City-owned Land to be Used for Public Utility Purposes

City Administrator/Recorder Mills introduced the proposed ordinance explaining that its purpose was to change the Zoning and Development Code slightly to exempt publicly owned property from certain limitations of the Code.

Mayor Forsythe asked City Administrator/Recorder Mills to explain why the City should not be held to the same Code standards as the public. As an example, Mrs. Mills explained that in the case of a City water system, equipment for a pumping station might be too large to fit within a City right-of-way so the City would need to acquire a small piece of land next to the right-of-way. She went on to explain that, in this case, the City is attempting to acquire access to the Outlet Control Structure, the weir, on Woahink Lake by acquiring a small portion (less than one acre) of land a vehicle could use to drive to the weir and turn around to exit. (01:33:50) She went on to note that not having access to the weir means that the City cannot easily perform repairs from land and this could jeopardize the City's State Water Right.

City Administrator/Recorder Mills explained that ORS 227.286 requires all ordinances regulating the location, construction, maintenance, repair, alteration and use and occupancy of land and buildings and other structures to apply to publicly owned property, except as the ordinances prescribe to the contrary. She also explained that the adjoining lots' marketability and future development would not be compromised by the City's acquisition of a small portion.

Mayor Forsythe recognized Ms. Dina Mitchell. She explained that she was representing her mother, Diane Anderson, owner of the property which is being considered for access to the Outlet Control Structure. Her first concern was that she had not been informed that this ordinance was being presented to the Council. Her second concern was that any discussion of the Structure should involve her. She went on to explain that she thought the original intent of her family was to allow the City a ten-foot wide access, but the City also asked for a thirty-foot area that encompassed the weir itself. She went on to note that her family did not understand why the City needed that much land and she asked that she be included in any further discussions about the property and the City's intentions. (01:41:30)

City Administrator/Recorder Mills explained that one reason for the large turnaround area was to allow cement trucks to turnaround if they were delivering cement to repair the weir. Council President Meyer explained that the City is required to maintain the weir so as not to interrupt flow of Woahink Creek into Siltcoos Lake and to allow fish passage, and that currently the only way to access the weir is by boat. He went on to note that the City will request an extension of the Water Right perfecting process in 2021 and for the State to approve an extension, the City must show progress in the things it is required to do to maintain its right.

There was some discussion about the need for a thirty-foot turnaround and some discussion about the suggested language change in the proposed ordinance. Councilors generally agreed that the language could be expanded by referring in general to public utility services, not specifically Woahink Lake and the Shared Domestic Water Supply Program. (01:54:45)

D. Consider Proposed Action Items on CwM-H20 Scope of Work and Approve the Same

City Administrator/Recorder Mills explained that the proposal from CwM-H20 that was included in their meeting packets was based on the strategies proposed by the City's Water Right attorney and included the cost for CwM-H20 to complete each task. She noted that Task Number Two is an OWRD grant funding application due on October 15, and she will need Council approval to submit the grant application.

Councilor Snow made a motion to allow the City Administrator/Recorder to apply for the OWRD grant and sign the CwM-H20 work authorization No. 1. The motion was seconded by Councilor Mallen and passed by unanimous vote.

12. EXECUTIVE SESSION

There was none.

13. REPORTS

A. Mayor's Report

Mayor Forsythe announced that his father-in-law, Mr. Bob Merz, a long-time resident of Dunes City and surrounding area, passed away on September 21.

B. Community Center Report

Councilor Wells reported that there were no problems.

C. Water Quality Report

Councilor Snow noted that due to COVID-19 there was no water testing.

D. Septic Report

City Administrator/Recorder Mills referred Councilors to their copies of the Septic Maintenance Report included in their meeting packets. She reported that 27 parcels have never complied with required inspections and enforcement action is being taken. She noted that 214 parcels are currently out of compliance with required inspections or are due for inspection.

E. Emergency Services Report

City Administrator/Recorder Mills reported that our area is twenty-six inches below normal rainfall, both Woahink and Siltcoos lakes are low. She cautioned residents on Siltcoos Lake to be on the lookout for blue-green algae on top of the water and if it is visible, don't drink the water from the lake.

F. City Administrator/Recorder/Planning/Staff Report

City Administrator/Recorder Mills reported that the revenue ad hoc committee met at Darlings Marina and RV Resort on September 14, a report on the discussion will be available. She also reported that there have been complaints about trees that need to be removed, as soon as the City is able to use chain saws the City will begin to address those trees. She went on to report that City Council representatives met with the Fire Protection Chief of SVFR on Alder Drive and determined that there is sufficient room for fire equipment to turn around at the end of the street.

City Administrator/Recorder Mills referred Councilors to copies of quotes from Marshall's and Florence Heating and Sheet Metal for repairs to City Hall's HVAC system. She explained that because City Hall is a public building, certain minimum requirements for heating and air conditioning must be met. She also explained that the City would qualify for a \$7,000 five-year zero interest loan or an \$800 rebate. During discussion, most Councilors agreed that they did not want to carry a debt to replace the HVAC system, but liked the possibility of a \$7,000 five-year zero interest loan. They agreed that City Administrator/Recorder Mills should obtain the necessary loan application documents and, if there is no issue with the terms, move forward with getting the work done. (02:21:35)

14. FOR THE GOOD OF THE ORDER

Councilor Wells reported an incident described to him by a resident: A woman was in her house and heard a noise. When she looked out the window she saw a drone hovering outside. She went outside to investigate and saw several people on a dock across the lake laughing about it. Councilors agreed this behavior is not acceptable and, residents should be on the alert.

15. ADJOURNMENT

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

Mayor Forsythe adjourned the meeting at 8:25 pm.

APPROVED BY THE DUNES CITY COUNCIL ON THE 28th DAY OF OCTOBER 2020

[Signed copy available at City Hall]

Robert Forsythe, Mayor

ATTEST:

[Signed copy available at City Hall]

Jamie Mills, City Administrator/Recorder