



**CITY COUNCIL MEETING MINUTES ~ APPROVED  
NOVEMBER 17, 2021 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](http://www.DunesCity.com)

**1. CALL TO ORDER**

Mayor Robert Forsythe called to order the Wednesday, November 17th, 2021 meeting of the Dunes City City Council at 6:00 p.m.

**2. ROLL CALL**

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

**Present:** Mayor Robert Forsythe, Council President Sheldon Meyer, Councilor Duke Wells, Councilor Robert Orr, and Councilor Rory Hammond.

**Absent and Excused:** Councilor Susan Snow and Councilor Tom Mallen.

**Absent:** N/A

**Also Present:** City Administrator/Recorder Jamie Mills, Planning Secretary Lani Noroña, and videographer Alan Campbell.

**3. PLEDGE OF ALLEGIANCE**

All who were present joined Mayor Forsythe in the Pledge of Allegiance.

**4. APPROVAL OF THE AGENDA**

Councilor Orr made a motion to approve the Agenda.

Councilor Wells seconded the motion and the motion passed by unanimous vote.

**5. APPROVAL OF THE CONSENT AGENDA**

Councilor Orr made a motion to approve the Consent Agenda.

Councilor Wells seconded the motion and the motion passed by unanimous vote.

## **6. ANNOUNCEMENTS / CORRESPONDENCE**

City Administrator/Recorder Mills announced the following:

- A. Dunes City offices will close at noon on Nov. 24<sup>th</sup> and all day Nov. 25<sup>th</sup>, 2021, in observance of the Thanksgiving holiday, therefore, there will be no Regular Session meeting of the City Council on Nov. 24<sup>th</sup>, 2021.

The Council discussed the impact of City office closures on City Council meetings.

Councilor Hammond made a motion to hold regularly scheduled City Council meetings on the third Wednesday of each month, beginning in January, 2022.

Council President Meyer seconded the motion and the motion passed by unanimous vote.

## **7. CITIZEN INPUT ON ITEMS NOT DISCUSSED IN PUBLIC HEARING**

*Maximum time 20 minutes: Speakers will be limited to three minutes. If the number wishing to testify exceeds seven speakers, each speaker's time may be reduced to fit within 20 minutes.*

There was none.

## **8. PRESENTATIONS**

None scheduled.

## **9. OLD BUSINESS**

None scheduled.

## **10. PUBLIC HEARING – Local Land Use Board of Appeals**

The City of Dunes City, Code Enforcement Officer vs. Joe Ellis, Individually and d/b/a Joe Ellis Construction, Inc. Appeal of Findings of Fact, Conclusions of Law and Final Order entered September 22, 2021.

Mayor Forsythe opened the Public Hearing at 6:12 p.m. and read the Public Hearing script.

There were no challenges to any Councilor's impartiality.

No Councilor declared any conflict of interest, bias, or ex parte contact.

Mayor Forsythe asked for the Staff Report.

City Administrator/Recorder Mills read the Staff Report.

Mayor Forsythe asked if any Councilor had questions for Staff. There were none.

Mayor Forsythe stated, "We will now take testimony from Joe Ellis".

Mr. Ellis read from a prepared document, summarizing the property history, ownership, and use. He stated the three properties on Seventh Heaven hold great sentimental value among family members and are a place of rest and remembrance.

Mr. Ellis detailed current development work and thanked the City for informing him of a neighbor's complaints. He described current activity on the property and stated he feels like he is being "singled out". Mr. Ellis stated he lives in Elmira and stays on his Dunes City property during the week, to reduce costs and travel time and when working in the area.

Mr. Ellis hopes he is allowed to continue staying on his Dunes City property when he works in the area, hopes the City Council will find in his favor and requested a refund of the Appeal fee.

Mayor Forsythe asked Councilors if there were questions for the Appellant  
Councilor Hammond asked Mr. Ellis to confirm his Dunes City stays are intermittent.  
Mr. Ellis repeated that he stays three to five days and then goes home (Elmira) on weekends.

Councilor Hammond asked Mr. Ellis how much longer he anticipates working in the area.  
Mr. Ellis answered he has about four more months of work and named some of the projects.

Councilor Hammond asked Mr. Ellis if only he stays in the R.V. and no employees stay there.  
Mr. Ellis answered that he is the only person staying there. He added that he has a water tank a generator, and regularly pumped portable septic tanks.

Councilor Hammond asked Staff about the requirements for travel trailers staying across the street from the Post Office (Westlake).  
City Administrator/Recorder Mills answered the requirements are the same.  
General discussion followed, about temporary R.V. stays and full time R.V. living in Dunes City.  
Councilor Hammond asked if others living full time or staying in an R.V. are against Code.  
City Administrator/Recorder Mills answered “yes”, adding that the process to address Code violations is complaint driven, adding that written complaints require action.

The Council agreed that Mr. Ellis is not conducting a business from his home.

Mr. Ellis stated he has development plans for his property but there is no current development activity.  
He repeated he is currently staying just a few days at a time, while working on other projects in the area.

Councilor Orr asked about the Building Permit process, as it pertains to this Hearing.  
City Administrator/Recorder Mills explained the process. She pointed out a discrepancy between City Policy and current Code, adding that Code is under revision.  
Mayor Forsythe stated that City Staff can make Land Use exceptions but not structural Building Code.  
Councilor Wells stated that there is no Building Permit issue, clarifying that Mr. Ellis is staying on his property off and on, while working in the area.

Councilor Orr asked if this is an avoidance of a violation.  
City Administrator/Recorder Mills clarified that there is a violation of Code but not of City Policy.  
Mayor Forsythe stated that the discrepancy between Code and Policy is the City’s issue.

Mayor Forsythe asked Mr. Ellis if he wanted to say anything else.  
Mr. Ellis stated that if the Council finds in his favor he requests a \$400 refund.

Councilor Orr asked Mr. Ellis if there is currently an RV on his property.  
Mr. Ellis answered there is a toy hauler on his property but he is currently staying at Collins Loop, with the owner’s permission.

Mayor Forsythe asked if Margaret Kelly was present.  
There was no response.

Mayor Forsythe closed the Public Hearing at 6:55 p.m.

Mayor Forsythe reconvened the regular session.

Councilor Wells made a motion overrule the Order entered September 8, 2021 in its entirety and reverse all portions of the \$400 Appeal fee.

He added that the Order is no reflection on City Administrator/Recorder, who must “do her job” and then requested this comment entered in the record.

Council President Meyer seconded the motion.

Councilor Hammond asked if the proposed Code amendments would address these issues.

City Administrator/Recorder Mills stated her opinion is that the proposed changes do not, adding that it is up to the City Council and urged the Council to carefully review the proposed changes.

The motion passed by unanimous vote.

## **11. NEW BUSINESS**

### **A. Draft Outdoor Lighting Ordinance First Reading**

City Administrator/Recorder Mills stated this is the First Reading and Council can begin discussions. She clarified that First Reading may be done by title only.

Council President Meyer made a motion to read the Ordinance by title only.

Councilor Wells seconded the motion and it passed by unanimous vote.

Mayor Forsythe read the Draft Outdoor Lighting Ordinance by title.

Councilor Wells stated he is opposed to the Draft Ordinance and considers this proposal to be a case of over regulation.

Councilor Orr stated he is generally in favor of the Draft Ordinance, adding it may need more work.

Councilor Hammond asked Staff how many lighting complaints they received.

City Administrator/Recorder Mills answered there were three complaints this year.

Councilor Hammond asked for the number of Building Permits issued this year.

City Administrator/Recorder Mills stated there were many Building Permits issued, but an exact number was not readily available.

Councilor Hammond said he likes the idea of Policy or recommendations but stated his opinion is this Ordinance will waste time. He stated his point is that three complaints vs. several Building Permits will mean every building permit will require eleven pages of Ordinance.

Councilor Orr said he does not think comparing the number of complaints to the number of issued Building Permits is a fair comparison. He added that some issues might be handled between property owners rather than filing a complaint.

City Administrator/Recorder Mills stated three received complaints generated letters from the City. Of the three complaints, two owners immediately resolved the problem and the third did not. She suggested putting language about light nuisances into the existing Nuisance Ordinance.

Councilor Hammond stated he likes the idea of guidelines as opposed to rules. He added he is not in favor of this Ordinance because of the complexity and the burden it would place on everybody. His opinion is that this is an issue of enforcement.

Councilor Wells stated he prefers the suggestion of putting language about Outdoor Lighting into the existing Nuisance Ordinance and dealing with issues by individual complaints.

Councilor Hammond stated he wants to know Lane County requirements.

Mayor Forsythe questioned some of the Security Lighting requirements in the proposed Ordinance.

Council President Meyer suggested “tabling” the proposed Ordinance, to obtain more information and added that he is not prepared to make a decision.

Mayor Forsythe asked Councilors for specifics.

Councilor Hammond stated he wants to know how this differs from current State requirements. Councilor Wells stated he would like this added to the Nuisance Ordinance, with Staff given the ability to correct violations.

Councilor Orr asked why this proposed Ordinance is coming as a separate piece from the Planning Commissioners’ other Ordinance work.

City Administrator/Recorder Mills explained this proposed Outdoor Lighting Ordinance adds a Chapter to Title IX of Dunes City Code, which is Building regulations, not Title XV Land Use Code, and lighting is not a Land Use issue.

Councilor Hammond stated this proposed Ordinance is something new and he does not want it to appear to be “snuck in”.

City Administrator stated the Planning Commission did put this in a different part of Code because it is not a Land Use issue. She added part of the problem with current Code is that everything was put into title XV. She further explained the process, step by step:

1. The Committee for Citizen Involvement (CCI) must request a Citizen Advisory Committee (CAC)
2. A CAC must be formed, do the work to create a draft, and make recommendation to the Planning Commission (PC).

3. Notice must be mailed to every property owner, 45 days in advance of a Public Hearing.

She added that these mailings cost the City over Three Hundred dollars and there are additional costs for printing and publishing.

4. The proposal comes before City Council with a PC recommendation and the entire process (above) is repeated.

She emphasized the intent is to keep Land Use issues in Land Use Code and Building requirements to Building Code.

Mayor Forsythe stated he also wants this Ordinance tabled.

City Administrator Mills explained this is the First Reading.

Mayor Forsythe said he appreciates the work of the Planning Commission, recognizing that it is tough work, that it’s hard to get a 360° input, trying to find something that fits for everybody in our community is not simple. He repeated his appreciation for work done by the Planning Commission.

Councilor Wells stated he thinks put this under a Nuisance will take care of this.

Mayor Forsythe and Council President Meyer agreed with Councilor Wells’ statement.

B. Committee for Citizen Involvement (CCI)  
Annual Report to City Council

City Administrator/Recorder Mills explained that the Annual CCI Report is the annual report of citizen input, as required by the State.

Councilor Hammond asked about the Report and City Administrator/Recorder Mills answered the Report is information and should be read.

Mayor Forsythe emphasized it is just a Report and asked if there were questions. There were no questions asked.

C. League of Oregon Cities' Report on Bills for City Review, Action, and Awareness

Councilor Wells remarked that Dunes City had a part in the passage of SB 866.

City Administrator/Recorder Mills reported the Jan. 30<sup>th</sup> deadline to complete the requirements.

Mayor Forsythe expressed general concern about legislation for small Oregon communities, particularly the potential for being legislated out of being cities, due to associated costs that small cities cannot meet. He stated the budget is decreasing every year but costs are increasing, citing additional costs of labor hours, staffing, and enforcement.

Councilor Wells echoed the Mayor's concerns and specifically mentioned the following:

Surplus Land Reporting for Affordable Housing (HB 2918), Occupancy Limitations (HB 2583), Motel Conversion Siting (HB 3261), and Local Camping Ordinances (HB 3115).

He stated these make it harder to run the City.

Councilor Hammond remarked that these Legislative Bills have already passed.

City Administrator/Recorder Mills stated there are reports and tasks required for compliance.

The Council discussed examples of probable impacts to the City.

Of general concern are the impacts of the Occupancy Limitations bill, especially on Dunes City's water and septic systems.

Mayor Forsythe pointed out the distinction that urban cities have established water and sewer infrastructure, while rural communities generally do not.

He stated that rural representatives are not being heard.

Council President Meyer agreed and stated that urban population centers "run the State", adding it would be better if there were guidelines instead of rules and regulations.

Councilor Orr asked about those who represent the City's interests.

General discussion followed about the League of Oregon Cities as it represents the City.

Councilor Hammond referred to LOC meetings, stating Councilors should attend and advocate.

He noted that Councilors would have to volunteer time to do so, as opposed to larger cities' ability to finance such participation.

City Administrator/Recorder informed the Council that most LOC meetings are now virtual.

Councilor Hammond stated he has attended some of LOC's virtual meeting but there was no time for input.

Mayor Forsythe shared a similar experience with LOC virtual meetings, noting that questions were "pushed aside" and not answered at subsequent meetings.

Mayor Forsythe asked City Administrator/Recorder Mills to research the impact of this new legislation for the City, so the Council can send a letter to local representatives and the Governor.

D. Oregon Department of Land Conservation and Development  
2021-2023 Draft Policy Agenda

City Administrator/Recorder Mills reported that based on past legislation, the DLCD Draft Policy Agenda shows scheduled work for future projects and policy. She informed Councilors that Code change documents coming before the Council may need some revision, to comply with SB 866.

E. Siltcoos Dam Operations

City Administrator/Recorder Mills directed attention to documents related to the dam's State Water Right and reported the dam property is currently for sale.

Mayor Forsythe questioned the validity of the Water Right Certificate, based on language that shows the Certificate was issued to International Paper for manufacturing. He stated there has been no manufacturing on that property for 30 years. He mentioned other issues with the Water Right documentation, especially the vague language about review.

He pointed out language that states, "under this Certificate for manufacturing purposes may be transferred . . . provided the new Certificate contains the conditions . . .". He said, unless there is a Certificate issued more recently than 2004, this Certificate is not valid.

Mayor Forsythe asked City staff to research the validity of this Certificate and attempt to determine the status, prior to a sale of the property.

City Administrator/Recorder Mills asked permission to contact the City's Water Right attorney, which Mayor Forsythe granted.

Councilor Wells made a motion that City Administrator/Recorder Mills contact the City's Water Right attorney about the validity of the Water Right Certificate.

Council President Meyer seconded the motion.

Councilor Orr asked if further action was needed.

Mayor Forsythe explained the first step is to determine if the Water Right Certificate is valid.

Councilor Hammond requested updated information on the Weir.

Mayor Forsythe requested City Administrator/Recorder Mills to add this to her report.

The motion passed by unanimous vote.

F. Network Assessment, Feynman Group

City Administrator/Recorder Mills directed Councilors' attention to their copy of the assessment. Councilor Hammond expressed concerns about the assessment and suggested Executive Session.

City Administrator/Recorder Mills informed the Council that today she received an estimate of \$20K to implement the changes and approximately \$600/month, for twelve years.

The Council agreed to table this discussion for a future meeting.

Mayor Forsythe directed City Administrator/Recorder Mills to put this on the Agenda for the next City Council meeting, under the Executive Session section, if that is allowed.

Mayor Forsythe expressed a desire that member(s) of the press attend every City Council meeting and Councilors agreed.

G. Senate Bill 866

City Administrator/Recorder Mills announced that NW Code Professionals hired an additional individual, to help Cities comply with SB 866 regulations.



## **12. EXECUTIVE SESSION**

None Scheduled

## **13. REPORTS**

### **A: Mayor's Report:**

Mayor Forsythe had nothing to report, other than previous discussion of the Water Right Certificate for Siltcoos Dam.

### **B: Community Center Report:**

Councilor Wells reported he would repair a water drip issue, two lights, and some roof tiles.

### **C: Water Quality Report:**

Councilor Snow was absent.

City Administrator/Recorder Mills announced that over the past week, Siltcoos Lake has had an intermittent, blue-green algae bloom. She added that test results indicate this is a new strain that does not appear to be toxic.

### **D: Road Report:**

City Administrator Mills received a District Two Road Report and thanked Councilor Hammond.

### **E: Emergency Services Report**

City Administrator/Recorder Mills reported that WLEOG received funding for purchasing new radios and the project is moving forward.

She announced the purchase of a surplus storage container, located across the street from City Hall. The storage container will allow staff to move the donated filing cabinets out of the kitchen.

The storage container needs work to be climate controlled, but the site has power, water, a septic system and an RV dump.

### **F. City Administrator/Recorder/Planning/Staff Report:**

City Administrator Mills reported the following:

1. There is still no Janitorial staff.
2. There are people with State Water Rights asking about fish screens, which are not required.
3. The City Administrator/Recorder's office time was limited, due to a quarantine following a Covid test.

## **14. FOR THE GOOD OF THE ORDER**

Councilor Hammond asked for the status of the July or August audit.

City Administrator/Recorder Mills has been asking for the results but has not received a report.

Councilor Wells thanked City staff for work on the Appeal, which shows some flaws apparent and shows that the system works.



## **15. ADJOURNMENT**

Councilor Orr made a motion to adjourn.

Councilor Hammond seconded the motion and the motion passed by unanimous vote.

Mayor Forsythe adjourned the meeting at 7:55 p.m.

**APPROVED BY THE CITY COUNCIL OF DUNES CITY THE 15<sup>TH</sup> DAY OF DECEMBER, 2021.**

[Signed Copy Available at City Hall]

Robert Forsythe, Mayor

ATTEST:

[Signed Copy Available at City Hall]

Jamie Mills, City Administrator/Recorder