



## PLANNING COMMISSION MEETING MINUTES ~ APPROVED

THURSDAY, DECEMBER 16, 2021 AT 6:00 P.M.

City Hall ~ 82877 Spruce St. Westlake OR 97493

The minutes of the Dunes City Planning Commission meetings are recorded and on file at Dunes City Hall.

Upon approval by the Planning Commission, minutes are posted and available online at: [www.dunescityor.com](http://www.dunescityor.com).

### 1. CALL TO ORDER

Chair Bonnie Allen called to order the December 16, 2021 Special Session Planning Commission meeting at 6:00 pm.

### 2. ROLL CALL

Planning Secretary Lani Noroña took the Roll Call.

**Present:** Chair Bonnie Allen, Vice Chair Ken Pesnell, Commissioner Wanda Phillips, and Commissioner Michael Mathews.

**Absent and Excused:** Commissioner Jamie Gorder.

**Also Present:** Planning Secretary Lani Noroña, City Administrator/Recorder Jamie Mills, Ms. Melissa Stinson, Ms. Geneva Jackson, and Ms. Jeanne Jackson.

### 3. PLEDGE OF ALLEGIANCE

Planning Commissioners, Staff, and all who wished to participate stood for the Pledge of Allegiance.

### 4. APPROVAL OF THE AGENDA

Vice Chair Pesnell made a motion to approve the Agenda.

Commissioner Phillips seconded the motion and the motion passed by unanimous vote.

### 5. APPROVAL OF THE CONSENT AGENDA

A. Minutes of the November 18, 2021 Planning Commission Meeting:

Planning Secretary Noroña made a Point of Order, regarding the "Staff Note" about Ordinance No. 205 definition of a quorum that was inserted on page 1 of the November 18, 2021 minutes. It has since been determined that Ordinance No. 235 superseded Ordinance No. 205 and re-defined "quorum".

Chair Allen asked for clarification.

City Administrator/Recorder Mills explained the following:

The numbers of Commissioners present at the November P.C. meeting / Public Hearing, and the vote recommending proposed Ordinance No. 259 go to City Council, were questionable because Ordinance No. 205 defined a P.C. quorum as: *“Four members of the Commission shall constitute a quorum.”*.

After distribution of the November P.C. meeting Agenda, Staff discovered Ordinance No. 235 supersedes Ordinance No. 205.

Ordinance No. 235 defines a P.C. quorum as *“A majority of members will constitute a quorum”*, but language in Ordinance No. 235 fails to reference Ordinance No. 205.

Commissioner Michael Mathews made a motion to approve the amended Consent Agenda with the condition the “Staff Note” paragraph at the top of page 1 of the November 18, 2021 minutes is deleted. Vice Chair Pesnell seconded the motion and the motion passed by unanimous vote.

## **6. ANNOUNCEMENTS / CORRESPONDENCE**

- A. Planning Secretary Noroña announced that City Council decided to hold regular meetings the third Wednesday of every month, beginning in January 2022.

Commissioners requested Staff to include City Council meeting minutes with Planning Commission meeting materials, beginning in January 2022.

Chair Allen and Staff confirmed these City Council meeting minutes will be Draft minutes.

## **7. CITIZEN INPUT FOR ITEMS NOT LISTED ON THE AGENDA**

- A. Chair Allen recognized Ms. Melissa Stinson.

Ms. Stinson asked if there will be opportunities for a Citizen Advisory Committee, when proposed Ordinance No. 259 comes back to the Planning Commission, or if the review will be done only by the Planning Commission.

Chair Allen answered that Ordinance No. 259 is New Business, Agenda item #9.

- B. Chair Allen recognized Geneva Jackson.

Ms. Jackson stated her concern is that Ordinance No. 259 has not been “given the time it deserves”, regarding the 30-day limit for Planning Commissioners to make a recommendation to City Council. She stated the State gives 120-days, and added “259 is huge and there are things people want to talk more about”. She stated she would like her letter read.

Planning Secretary Noroña clarified that the 30-day limit for Planning Commission recommendation to City Council was a phrase in an older Ordinance. She added that Staff and Commissioners agree that 30 days is not enough time for review and corrections are forthcoming.

- C. Chair Allen recognized Jeanne Jackson.

Ms. Jackson stated she supports her sister’s statements and urged Commissioners to ensure more time is devoted to this issue.

City Administrator/Recorder Mills gave a history of how the 30-day limit came to be, adding that this is one reason Code is under revision.

## 8. PUBLIC HEARING

None Scheduled.

## 9. NEW BUSINESS

### A. Update on proposed Ordinance No. 259:

Planning Secretary Noroña repeated that City Council voted to return proposed Ordinance No. 259 to the Planning Commission for further consideration and review.

Planning Secretary informed Commissioners of conflicting language between Ordinance No. 205 and Ordinance No. 235. She explained that Staff must ensure language is consistent with language in Ordinance No. 259, Ch. 155 revisions.

Chair Allen stated that conflicting language is confusing for Commissioners, who want to act in accordance with Ordinances, adding that the Planning Commission needs this clarified.

City Administrator/Recorder Mills explained that Ordinance No. 235 supersedes Ordinance No. 205.

Planning Secretary Noroña informed Commissioners the City's current electronic technology does not support global searches in all Ordinances at once. This makes it difficult to ensure consistency between Ordinances, is time consuming, inefficient, and very expensive. She explained that Staff must open each one of the 260 electronic Ordinance .pdf files to search terms, adding that Staff is investigating how to correct this, so anyone can globally search one file for all Ordinances, one file for the City Charter, and one file for the City's Comprehensive Plan.

Commissioner Phillips stated there are programs that allow terminology searches for documents. Planning Secretary Noroña stated the City currently has this technology, and clarified that the goal is to create a method of globally searching multiple documents at once. She added that Staff is actively pursuing technical assistance, as other City technology needs updating and improvement.

Chair Allen asked, "On 259, where do we stand?"

City Administrator/Recorder Mills answered this is a Planning Commission decision.

Planning Secretary Noroña offered to write a Staff Report of recommended changes, and noted that public testimony may affect the Commission's decision.

Vice Chair Pesnell asked about the timeline for Planning Commission review.

City Administrator/Recorder Mills answered that current Code is thirty days, but the timeline restarted when the City Council referred this proposed Ordinance back to the Planning Commission.

Vice Chair Pesnell stated the process of revising Ch. 155 was several years of work by the Planning Commission, the community was invited but there was very little public participation. He expressed gratitude for the recent public participation, but argued that Commissioners not delay the process or making a decision.

Commissioner Phillips agreed with Vice Chair Pesnell.

The Commission discussed all the work done to revise Ch. 155 and testimony from recent meetings. Chair Allen summarized the history of the revision work, Citizen Advisory Committee meetings, Planning Commission meetings, and public input. She asked Commissioners if any additional information justifies further modifications to Ch. 155 and thoughts about the November 18, 2021 Planning Commission meeting.

Commissioner Mathews noted he and Chair Allen did not attend the November 18, 2021 Planning Commission meeting. He asked Chair Allen if she had any thoughts regarding Commissioners' votes at that meeting.

Chair Allen stated that she totally agrees with the November 18, 2021 Planning Commission vote and that she continues to support that decision.

Commissioners continued discussing whether to undertake more revisions of Ch. 155 or make their recommendation to the City Council.

Planning Secretary Noroña noted that except for recommendations to reinstate specific Booth Island Code, the recent citizen concerns, comments, and testimony apply to existing Code that is not part of the Chapter 155 revisions.

Commissioners cited compelling testimony in favor of keeping specific Booth Island Code and agreed to recommend reinstatement of Code specific to Booth Island.

Commissioner Phillips asked if Commissioners should review Ordinances No. 205 and No. 235, and if this affects the Commission's decision on Ordinance No. 259.

City Administrator/Recorder Mills answered Ordinance No. 235 supersedes Ordinance No. 205. She stated what is needed is a clarification Ordinance before City Council, that adds a section in Ordinance No. 235 repealing specific language in Ordinance No. 205.

Chair Allen clarified the issue of conflicting language in Ordinances No. 205 and No. 235 does not affect the Commission's ability to make a recommendation of proposed Ordinance No. 259. She reviewed the Commission's available recommendation options for proposed Ordinance No. 259.

Vice Chair Pesnell made a motion that Planning Commission sends Ordinance No. 259, Chapter 155 revisions to City Council, as amended at the previous P.C. meeting. Commissioner Phillips seconded the motion.

City Administrator/Recorder Mills addressed citizen concerns raised at the November 2021 Planning Commission meeting. She stated Code Enforcement of Zoning and Building Code is done by the Building Official. According to State law, the Building Official is a professional, hired by Dunes City to conduct building inspections, and reports to the Building Codes Division.

Vice Chair Pesnell asked if the City Administrator/Recorder is the Building Official. City Administrator/Recorder Mills answered, "No, not for anything related to Building and Permits". She explained that recent legislation requires Dunes City to adopt an Ordinance creating Chapter 92, a Building Program, and Chapter 93, Building Regulations. She added that the only person who has authority to enter a property without permission of the property owner is the Building Official, who is the hired professional that conducts Building Inspections for Dunes City.

City Administrator/Recorder Mills informed Commissioners that recent legislation also requires cities to have a qualified Staff member oversee the Building Inspector's work. Dunes City has designated the Permit Technician for this role, who is training to meet the requirements.

Chair Allen stated there was a motion and that the motion was seconded. She requested the Roll Call vote.

Planning Secretary Noroña called the vote by Roll Call:

Vice Chair Pesnell – Aye  
Commissioner Mathews – Aye  
Commissioner Phillips – Aye

The motion passed by unanimous vote.

#### B. Update on proposed Outdoor Lighting Ordinance No. 258

Planning Secretary Noroña reported that at the December 15, 2021 City Council meeting, the City Council discussed adding certain language from this proposed Outdoor Lighting Ordinance to the existing Nuisance Ordinance, instead of creating a separate Ordinance just for Outdoor Lighting. She suggested Commissioners may want to review City Council meeting minutes.

Chair Allen asked if every item would go into the Nuisance Ordinance or if Councilors picked only certain items.

Planning Secretary Noroña answered that City Council did not want every item included in the existing Nuisance Ordinance and offered to provide Commissioners a copy of city Council's proposed amendments to the Nuisance Ordinance, when it becomes available.

Chair Allen requested this be included on the Planning Commission January meeting Agenda, so that Commissioners can compare the proposed Outdoor Lighting Ordinance to changes City Council makes to the Nuisance Ordinance.

City Administrator/Recorder Mills informed Commissioners that City Council tabled consideration of the proposed Ordinance to amend the Nuisance Ordinance until Councilor Wells is present, as he was not present for the December City Council meeting.

Planning Secretary Noroña stated that the proposed Ordinance might not be available before the Planning Commission's January meeting. She offered to send Commissioners an electronic copy of the draft proposal, as soon as it is available.

Vice Chair Pesnell asked if the Planning Commission has the opportunity to revisit the proposed Outdoor Lighting Ordinance. Commissioners agreed "no", as this is now before the City Council.

City Administrator/Recorder Mills stated she would appreciate a Planning Commission review of the language that goes into the Nuisance Ordinance.

Vice Chair Pesnell asked if the proposed Ordinance goes through the Public Hearing process. City Administrator/Recorder Mills answered "yes", a Public Hearing before the City Council. She clarified that Nuisance code is in a different chapter and is not a land use or development issue.

Vice Chair Pesnell stated Commissioners want to be aware of when this is happening.

Chair Allen added that there was lots of community interest in Outdoor Lighting and the community needs to know that this is a City Council action item.

#### C. Update on Little Woahink subdivision

City Administrator/Recorder Mills informed Commissioners that the developer contacted the City about installing a gate at the entrance of the subdivision, to create private access. A replat is required, if the developer decides to proceed with that plan.

Chair Allen asked for confirmation that a replat requires going through the whole approval process, which City Administrator/Recorder Mills confirmed.

Commissioner Phillips asked City Administrator/Recorder Mills to summarize the history of the Little Woahink development.

City Administrator/Recorder Mills stated the subdivision was originally a Planned Unit Development in 2003. The Planning Commission approved this, but City Council added many requirements and ultimately denied it. This was appealed to LUBA, and LUBA directed the City Council to approve it with conditions, set forth those conditions, and declared it approved. The developer ran out of money, filed for bankruptcy, so the person financing the development became owner of the property. Ten years later, the owner asked if the City Council had complied with the court order and discovered that the City Council had not complied with the court order. All attorneys met and determined that development could proceed, following current Code. The proposed development came before the Planning Commission, was ultimately approved, and the plat was recorded. If the developer now wants to install a gate and change a public road to a private road, it has to be replatted.

Commissioners discussed the status of development work in the Little Woahink subdivision, such as septic system requirements, water source and water distribution, topography, roads, and the number of lots. Commissioners also studied the current subdivision map.

City Administrator/Recorder Mills pointed to areas on the map where no development can occur, as DEQ identified additional springs in those areas.

Planning Secretary Noroña informed Commissioners that, according to the Permit Technician, the current development work is for installation of a utility building.

#### D. Ordinance No. 205 quorum requirements

This subject was covered earlier, during discussion of Agenda item 9. “A, Update on proposed Ordinance No. 259”.

#### E. Public Hearing procedure information

Planning Secretary Noroña provided Commissioners the following information:

1. According to Oregon Public meeting law, there is no length of time limit for public meetings.
2. Agenda language stating, "The meeting will adjourn no later than 8:00 p.m." was deleted.
3. Agendas that include Public Hearings will have a section for "Deliberation and Decision".
4. DLCD has offered virtual or in-person training for public meetings and public hearings.

Vice Chair Pesnell asked for clarification regarding whether the rule about not limiting the time of the meeting applies only to Public Hearings, or if the same rule applies to any Public meeting.

Planning Secretary Noroña clarified there is no time limit for any Public meeting, to allow all who wish to speak the opportunity to do so.

Chair Allen asked about a Public Hearing two-hour time limit, divided by the number of those who wish to speak.

Planning Secretary Noroña explained that a limit on time allotted for Public speaking is allowed, to leave enough time for Commissioners' to deliberate and make a recommendation. She directed Commissioners' attention to the printed copy of DLCD information, and read aloud the section about limiting time for Public speaking or testimony, but prohibiting a limit of the length of the meeting.

Vice Chair Pesnell asked when Commissioners decide how much time to allow for Public comment, specifically whether to decide this ahead of, or during, the meeting.

Planning Secretary answered it can be decided based on the number of those who indicate they want to speak, and again referred to the printed DLCD information and examples.

#### F. Terminology

Planning Secretary Noroña referred to a printout that explains the history of the term, "grandfather clause", and provided examples of appropriate terms, such as pre-existing, pre-approved, or exempt.

Vice Chair Pesnell asked if Planning Commissioners have used the term "grandfather clause".

Planning Secretary Noroña answered the term was used in previous Planning Commission and City Council meetings.

### **10. UNFINISHED / OLD BUSINESS**

There was none.

### **11. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA / FOR THE GOOD OF THE ORDER**

- A. Chair Bonnie Allen thanked the community, City Staff, and Commissioners, for undertaking such a serious and edifying process and encouraged continued participation.  
She wished everyone a Happy Holiday.

### **12. ADJOURNMENT**

Chair Allen declared the meeting adjourned at 6:59 p.m.

**APPROVED BY THE PLANNING COMMISSION ON THE 27<sup>TH</sup> DAY OF JANUARY 2022.**

[Signed Copy Available at City Hall]

Bonnie Allen, Chair

ATTEST:

[Signed Copy Available at City Hall]

Jamie Mills, City Administrator/Recorder