

**Exhibits for the Minutes
of the
August 10, 2006
Dunes City Council Meeting**

EXHIBIT A
PAGE

Tanker spill shuts down 126 commute for three days

**The Florence to Eugene
bigway reopened early
Thursday morning**

By DENISE RUTMAN
Siuslaw News

A contracted crew worked late into the night Wednesday to contain a Highway 126 tanker spill from a crash that shut both lanes of the main Eugene-Florence thoroughfare for about three days.

Highway 126 was closed from Monday to Thursday morning, opening Thursday at 4 a.m. The highway closure started at the intersection of 126 and Highway 36 at Mapleton and ended at Nodi, where the diesel tanker truck overturned late Monday afternoon. Eugene-bound commuters were directed to a detour route on Highway 36 during the three days of containment and road repair.

According to an Oregon Department of Transportation (ODOT) press release, a westbound truck, carrying about 10,000 gal-
loss of gasoline and 1,300 gallons of diesel, drove into a ditch along the north side of the road just west of Nodi and overturned, landing on its side.
"Approximately 6,200 gallons of gasoline spilled before emergency responders were able to plug the leak," said the press release. Hazardous materials teams were sent to aid in the containment effort and the Department of Environmental Quality (DEQ) hired a contractor to remove contaminated asphalt and soil in the affected area. "Workers removed a 70-foot-long stretch

of pavement and underlying soil to a depth of 6 feet Tuesday night and early Wednesday morning," said the press release. "At 9:30 a.m. Wednesday, ODOT received approval to begin backfilling the excavated roadbed. Paving of the damaged highway started about 2 p.m. Wednesday."
At 8:30 p.m. Wednesday night, the 70-foot-long highway swathe was completely repaired. But high heat and mid-90s temperatures made the newly paved surface spongy for heavy travel, ODOT officials concluded.

Pushing past an original reopen estimate of 9 p.m. Wednesday, efforts to use water to get the asphalt temperature down did not work.
Despite work still being done on shoulders, both lanes opened to full public travel 4 a.m. on Thursday.
"It might be some time to see if there will be any impact to the environment," reported an ODOT dispatcher.

EXHIBIT A
PAGE 1

Re: HWY 101 and ODOT

EXHIBIT B
PAGE 1

Dunes City Council
P.O. Box 97
Westlake, OR 97439
August 2, 2006

Dear Council,

Recently the tanker spills (HWY 126 and 38) near our community have increased my concern for our water supply. Please consider sending the letter I've written to ODOT and other agencies. Our Comprehensive Plan, Policy B10 states: The city will work with Lane County, ODOT, and other state agencies to develop a protective barrier where highway 101 runs parallel to Woahink Lake. ODOT needs to protect the lake from spills and road runoff. A spill on HWY 101 near the sea plane would contaminate Woahink Lake, Woahink Creek and then flow into Siltcoos Lake.

This is our wake-up call. Recently 6200 gallons of fuel spilled onto HWY 126. Workers removed a 70 long stretch of pavement and underlying soil to a depth of 6 feet. We CANNOT allow that type of disaster to happen here. The time has come to insist that state agencies do their job to keep our drinking water supply protected.

Respectfully,



Susie Navetta

Dave Thompson
Oregon Department of Transportation
355 Capitol St. N.E.
Salem, OR 97301-3871
August 10, 2006

EXHIBIT B
PAGE 2

Dear Sir,

The recent tanker spills on HWY 126 and HWY 38 are of great concern to the residents of Dunes City.

Our beautiful coastal lakes are NOT protected from hazardous spills. Siltcoos and Woahink Lakes are the drinking water supply for most of our community. Woahink Lake and Woahink Creek (one of the water sources of Siltcoos Lake), are within a few feet of the Highway 101. Policy B10 of the Dunes City Comprehensive Plan states: The city will work with Lane County, ODOT, and other state agencies to develop a protective barrier where highway 101 runs parallel to Woahink Lake. ODOT needs to protect the lake from spills and road runoff.

Honeyman State Park has over 1.5 million visitors each year who depend on that water for drinking and recreation. The time has come to protect this most precious asset. Not only would a 6200 gallon spill, like the one on HWY 126, contaminate water source for over 1000 people, but leave permanent damage to the lake would be irreversible. It was also our understanding that the roads were closed for a few days. In that case we would be cut off from ALL emergency services including the Ambulance, the Fire Department, Peace Harbor Hospital and the PUD.

A protective barrier similar to the one on Clear Lake is an outstanding example of what is needed on HWY 101 near milepost 193. The area south of Canary Road past Clear Lake Road has culverts under the highway and direct flow of road runoff into Woahink Lake. This is also recipe for disaster. Please let us know what steps we need to pursue with you to remove these serious threats.

Respectfully,

Sheldon Meyer, Mayor

Cc: Department of Environmental Quality
Honeyman State Park
Lane County
Department of Fish and Wildlife
Shouthshore Homeowners Association
Woahink Lake Asociation

EXHIBIT C
PAGE 1

Ralph E. Farnsworth
83837 Highway 101 (Dunes City)
P.O. Box 2647
Florence, OR 97439

Mayor Sheldon Meyer
82877 Quince Street
Westlake (Dunes City)
Oregon 97493

August 10, 2006

Re: Budget Information

Dear Mayor Meyer,

Please consider this as an official request for a copy of the City's budget for the last fiscal year, the current fiscal year, and an explanation of the variances for any amounts exceeding the last budgeted period estimates by more than ten percent.

I also request that this information be added to the City website and that it become an ongoing posting to that website in the interest of transparency in government.

Thank you for your cooperation in this matter.

Respectfully,

**CITY COUNCIL OF DUNES CITY
STAFF REPORT**

MINOR PARTITION FOR CHARLES H. BANG JR.
(FILE NO. MP 05-05)

Submitted:	November 29, 2006
Deemed Incomplete:	December 12, 2005
Deemed Complete:	May 23, 2006
120 Day Deadline	September 23, 2006
Property:	Tax Lot 3500--Assessor's Map 19-12-23-33
Location:	Woodland Lane
Area:	Approximately 2.6 Acres
Zoning:	R-1 Residential District
Request:	Tentative partition approval to create two parcels
Applicant:	CHARLES H. BANG JR.
Planning Commission	
Hearing Date:	June 15, 2006
City Council	
Hearing Date:	August 10, 2006

I. REQUEST

The requested action is to minor partition an 2.6-acre parcel into two parcels. Proposed Parcels would take access to Cloud Nine Road via a private roadway/driveway easement. The subject property is in the R-1 zoning district within the city limits of Dunes City. The Minor Partition Application was submitted on November 29, 2006 and deemed complete on May 23, 2006.

II. BACKGROUND AND CONTEXT

The City received a preliminary minor partition application from Charles H. Bang Jr. for a two parcel partition on a single parcel off Woodland Lane in Dunes City.

The subject property is currently within the concurrent Dunes City city limits and Urban Growth Boundary. The proposed land division would divide approximately 2.6 acres into two parcels. Parcel 1 is the owner's residence with a garage on 1.6 acres. Parcel 2 is 1.00 acres intended for the owner's child to build a home on. Slopes on the lots range from relatively flat to very steep in the west lake side.

The proposed access to the partition is from Woodland Lane, via private driveway.

Applicants have paid for the reservation of water rights from Woahink Lake. Parcel 2 will have an onsite septic system which will be installed at the time of building permit application.

IV COMMENTS

A. AGENCY COMMENTS

1. George Ehlers, Department of Public Works, Land Management Division

COMMENTS: The plot plan shows locations of test holes. It does not appear that the applicant has applied for a septic Site Evaluation through our office at this time. I would recommend that Site Evaluation be completed and approved as a condition of partition approval, and that a viable home site be demonstrated given the site access, topography, setbacks, water supply, and septic-approved area.

B. PUBLIC COMMENTS

1. James E. Baumeister 19-12-23-33-101

COMMENTS: "Meets 1 acre lot requirement. I favor granting the minor partition."

V. ISSUES

Road Commission Meeting of January 16, 2006.

Condition 1: As required by the Dunes City Master Road Plan, Chapter 2, Section 9, Page 1, Item 1b: A driveway on a two lot shared easement shall have at least a 20-foot width and be constructed with a 12-foot asphalt or concrete running surface width with 2.5 feet of rock shoulders.

Condition 2: As required by the Dunes City Master Road Plan, Chapter 2, Section 9, Page 2, Item 2: to construct or modify a driveway on lot where any portion of any existing or proposed structure is 150 feet or more away from a Dunes City street, a fire-access street approval issued by the Siuslaw Valley Fire and Rescue (SVFR) is required prior to issuance of a building permit.

VI. RECOMMENDED DECISION

Based on the finding in the Draft Findings of Fact and Decision, staff recommends that the City Council approve the minor partition MP 02-06, CDS Properties, LLC, subject to conditions.

VII. POSSIBLE ACTIONS BY THE CITY COUNCIL

1. Approve the Minor Partition application based on the findings of fact in the Proposed Final Order.
2. Approve the Minor Partition based on the findings of fact in the Proposed Final Order, as modified by the City Council.
3. Move to continue the meeting to a certain date to provide the opportunity for the applicant to submit additional information and/or allow for more deliberation. The deadline for processing within 120 days mandated by state statutes is September 23, 2006.
4. Deny the Minor Partition Application.

VIII. ATTACHMENTS

1. Letter from Charles Bang appointing Larry Bishop.
2. Letter from Gary Rose, Leisure Excavating, L.L.C. stating his opinion that the lot would meet the standards required to obtain a septic permit.
3. Larry Bishops fax responding to George Ehlers e-mail showing home-site, proposed drain field and replacement, test holes and alternate drain field and replacement.

IX. EXHIBITS

1. Application material submitted November 29, 2005
2. George Ehlers e-mail
3. Road Commission Meeting minutes of 1/16/06
4. Woahink Water application

Bellemore said the plan does not show as a panhandle but, instead talks about an easement, then wanted to know what the difference was.

Navetta said it's the same.

Burke said it is a driveway easement.

Navetta said it does not have a frontage of 60'.

Anderson said that this is not a panhandle, because it is a driveway easement not a street.

Burke said this is a shared easement with access off Woodland, and there is not 60' existing now, and Woodland has only 30' of right way and dead ends at the property.

There were multiple discussions about the road easements and driveways and everyone giving their opinions about the dead end road and what to do about it. There was a comment that the owner has a right to divide the property. The question was asked if we have to approve it.

Anderson said that we have to go by what the Ordinances say and just because we do not like something, we can't deny the request.

Navetta said that after there are 30 houses on a street, there must be a second access.

ACTION: Navetta made a motion to deny the request for a minor partition due to flag lot, how close the driveway is to the garage, driveway frontage and the length of driveway and turnaround. David Bellemore seconded the motion. There were 1 ayes (Navetta) and 4 nays (Anderson, Burke, Shearer, Bellemore). Motion failed.

ACTION: Shearer made a motion to approve the Minor Partition with the five conditions (see Exhibit B). Richard Anderson seconded the motion. There were 4 ayes (Anderson, Burke, Shearer, Bellemore) and 1 nay (Navetta). Motion passed.

Burke closed the Public hearing at 8:35 p.m.

V. OLD BUSINESS:

A. Woods on Woahink – Final Plat Approval

Don Rase went over each of the conditions of the final order and addressed each with documentation to confirm.

ACTION: Susie Navetta made a motion to exceed 9:00 p.m. Richard Anderson seconded the motion. There were 5 ayes and 0 nays. Motion passed.

ACTION: Ron Shearer made a motion to recommend approval of the final plat to the City Council for the Woods on Woahink Subdivision. Susie Navetta seconded the motion. There were 5 ayes and 0 nays. Motion passed.

VI. UNSCHEDULED BUSINESS - None

VII. ADJOURNMENT

Burke adjourned the meeting at 9:08 p.m.

George Burke, Chairperson

Teri Tinker, Planning Sec'y

Richard Anderson, Planning Commissioner

David Bellemore, Planning Commissioner

Susie Navetta, Planning Commissioner

Ron Shearer, Planning Commissioner

**CITY COUNCIL OF DUNES CITY
FINAL ORDER
FINDINGS OF FACT AND DECISION
MINOR PARTITION FOR Charles H. Bang Jr.
(FILE NO. MP 05-05)**

Submitted: November 29, 2005
Deemed Incomplete: December 12, 2005
Deemed Complete: May 23, 2006
120 Day Deadline: September 23, 2006
Property: Tax Lot 3500--Assessor's Map 19-12-23-33
Location: Woodland Lane
Area: Approximately 2.6 Acres
Zoning: R-1 Residential District
Request: Tentative partition approval to create two parcels
Applicant: Charles H. Bang Jr.
Planning Commission
Hearing Date: June 15, 2006
City Council
Hearing Date: August 10, 2006

FINDINGS OF FACT

The Dunes City Council finds the following:

- A. The applicant submitted an application for a minor partition (MP 05-05), and provided all information required by applicable sections of the Dunes City Code, Chapter 155, Minor Partitions.
- B. The City Council met on August 10, 2006 to review and discuss the application, Assessors Map 19-12-23-33 Tax Lot 3500. The Council reviewed all material relevant to the application, including the following pieces of evidence:
 1. Application for a minor partition (MP 05-05)
 2. Staff Report dated August 10, 2006
 3. Oral Testimony; See minutes of City Council Public Hearings, 6/15/06.

APPROVAL CRITERIA AND ANALYSIS:

The requested action is to minor partition a 2.6-acre parcel into two parcels. Proposed Parcels 1 and 2 would take access to Woodland Lane via a private roadway/driveway

easement. The subject property is in the R-1 zoning district within the city limits of Dunes City. The Minor Partition Application was submitted on November 29, 2005 and deemed complete on May 23, 2006.

APPLICABLE CRITERIA

Dunes City applies the following criteria from Dunes City Code §155.031, and City Ordinance No. 164 (amends 155.030) to applications for Minor Partition:

§155.030 (Ordinance 164) SUBMISSION OF APPLICATION

(A) An application shall be made by the owner of the property in question proposing the minor partition or his or her authorized agent on a form prescribed by the city and shall be submitted together with:

... A tentative map of the proposed minor partition, drawn at a scale of 1"=50' or other standard scale, by a surveyor who is a state registered engineer or registered state land surveyor.

RESPONSE: *The proposal complies with this standard.*

... The tentative map or an overlay shall include property boundaries, grade identification, contours, location of septic test holes, and existing easements and right-of-ways.

RESPONSE: *The proposal complies with this standard. The applicants have provided a letter from Gary Rose of Leisure Excavating, LLC who states: "...From observing the site and soils disturbed near by, and my knowledge of the area, it is my opinion that this lot would meet the standards required to obtain a septic permit.", demonstrating that it is likely that the standards can be met.*

... A copy of the deed of record of the property and proof of current ownership and any other information, which may reasonably be required as determined by the city, shall also be included.

RESPONSE: *The applicant has provided proof of ownership, therefore complies with this standard. The City also required reservation of water rights from Woahink Lake which the applicant has complied with.*

§155.032 REVIEW BY CITY COUNCIL

The minor partition, upon recommendation for approval or denial by the Planning Commission, will be scheduled for consideration by the City Council at its next

regular meeting. Consideration of the application may be postponed at the request of the applicant. The City Council shall approve, deny, or, when further information is required, postpone a decision on the application. Approval of the minor partition must include the affirmative findings as listed in §155.031

§155.031 REVIEW BY PLANNING COMMISSION

- (A) The minor partition shall be reviewed by the Planning Commission within 30 days of the submittal of the application. The Planning Commission shall recommend approval or denial of the application to the City Council, or when further information is required postpone a decision on the application.
- (B) Recommendation for approval must include affirmative findings that:
 - (1) The minor partition complies in all respects to the partitioning requirements and purpose of this chapter, the Comprehensive Plan, and the laws of the state.
 - (2) The minor partition does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or any adjoining land or access thereto.

RESPONSE: BY COMPLYING WITH THE REQUIRED CONDITIONS, The minor partition can comply with the partitioning requirements and purpose of this chapter, the Comprehensive Plan, and the laws of the state.

- §155.081 STREETS.
- §155.082 ALLEYS.
- §155.083 EASEMENTS.
- §155.084 LOTS.
- §155.085 DRAINAGE.
- §155.086 PARTIAL DEVELOPMENT.
- §155.087 UNSUITABLE AREAS.

§155.088 DEVELOPMENT LIMITATIONS.

RESPONSE: *DCC §155.081 -155.088 applies only to the subdivision process. Therefore, the City is not applying it to the partition proposal.*

§155.089 ACCESS

- (A) Restrictions with regard to access points.
 - (1) Each property is entitled to access to a street.

RESPONSE: *The applicant proposes to provide Parcels 1 & 2 with access to Woodland Lane via an easement over Parcel 1. The proposal complies with this standard.*

- (2) Direct driveway access to collector and arterial streets shall be avoided where possible . . .

RESPONSE: *Woodland Lane is not a collector street. Therefore, the proposal complies with this standard.*

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

RESPONSE: *The applicant has proposed a joint roadway/driveway easement for access. 1/16/06 Road Commission Meeting Condition #1: ..."A driveway on a two lot shared easement shall have at least a 20-foot width and be constructed with a 12-foot asphalt or concrete running surface width with 2.5 feet of rocked shoulders.*

CONDITION #2: *Prior to final plat, grade and pave the driveway within the partition area to the required 20 feet easement and be constructed with a 12-foot asphalt or concrete running surface width with 2.5 feet of rocked shoulders, or show financial assurance in a form acceptable to the City*

- (B) Relation to adjoining road system.
 - (1) A subdivision or partition shall provide for the continuation of major and secondary roads existing in adjoining subdivisions or partitions .
 - (2) Redevelopment plans may be required to show compliance with 2 (B) of this chapter.
- (C) 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 roadway for a distance of at least 60 feet.

RESPONSE: *These standards do not apply.*

- (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 judgment issued by a court of competent jurisdiction.
 3. An order of the court establishing a statutory way of necessity or gateway road.
 4. An express easement set forth in an approved and recorded subdivision or partition.

RESPONSE: *Compliance would be achieved with the applicant providing to the City, proof that (b)1. "An express grant of reservation of an easement in a document recorded with the County Recorder."*

CONDITION #3: *Prior to final plat, the applicant shall provide to the City, proof that "An express grant of reservation of an easement in a document recorded with the County Recorder." Per 155.089(C)(3)(h) for ingress and egress.*

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

RESPONSE: *Compliance would be achieved with the applicant providing to the City, prior to approval of the final plat for this partition, proof that an easement has been recorded for parcel 2 access through parcel 1 per Road Commission recommendation of 1/16/06 that the driveway easement shall have at least a 20'foot width.*

CONDITION #4: *Prior to final plat, the applicant shall provide to the City, proof that an easement has been recorded for parcel 2 for the 20' wide roadway/driveway easement as conditioned by the Road Commission on 1/16/06.*

- (2) Public roadways and easements used as access to lots or parcels shall be designed and developed according to the standards of this chapter.

RESPONSE: *This standard does not apply.*

- (3) Easements used as access to lots or parcels shall meet the following criteria:
- (a) There shall be no more than three lots, parcels, or unsubdivided or unpartitioned tracts of land accessed by any portion of the easement.

RESPONSE: *The applicant proposes that two parcels would take access by way of the easement. Therefore, the proposal complies with this standard.*

- (b) Easements shall not be approved if the roadway 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.

RESPONSE: *DCC §155.089 applies only to subdivisions. Therefore, the City is not applying it to the partition proposal.*

- (c) The minimum width of roadway easements shall be 50 feet.

RESPONSE: *This standard does not apply*

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

RESPONSE: *The applicant has proposed a 20' wide private access and public utility easement through Parcel. Therefore, the proposal complies with this standard.*

- (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.
- (g) Any roadway easement approved shall be documented on a form acceptable to the city and shall contain the minimum following information: the grantor and grantee, a description of dominant and servient tenements, a description of the intent or purpose of the easement, and a statement of maintenance responsibility.
- (h) All approved roadway easements shall be recorded in the title of the affected properties and recorded with the county.
- (i) If the city determines that the access and transportation needs of the public would be better served if the roadway 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.

RESPONSE: *DCC §155.089 applies only to subdivisions. Therefore, the City is not applying it to the partition proposal.*

§155.090 SOLAR ACCESS STANDARDS

RESPONSE: This standard shall be met through the building permit process.

§155.100 AGREEMENT FOR IMPROVEMENTS

(A) Before City Council approval of a subdivision plat or partition map, the city may require the land divider to either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the City Recorder an agreement between him- or herself and the city.

RESPONSE: DCC §155.100 applies only to subdivisions. Therefore, the City is not applying it to the partition proposal.

The Dunes City Planning Commission determined that the application for the Charles H. Bang Jr. minor partition preliminary plan (MP 05-05) can meet the tentative plan review criteria listed in 155.080 and other applicable sections of the Dunes City Development Code. The applicant shall revise the preliminary minor partition plan and other information necessary to conform to requirements and conditions of the City Council's action, including but not limited to:

1. Prior to final plat, grade and pave the driveway within the partition area to the required 20 feet easement and be constructed with a 12-foot asphalt or concrete running surface with 2.5 feet of rock shoulders, or show financial assurance in a form acceptable to the City.
2. Prior to final plat, the applicant shall provide to the City, proof that "An express grant of reservation of an easement in a document recorded with the County Recorder." Per 155.089(C)(3)(h) for ingress and egress.
3. Prior to final plat, the applicant shall provide to the City, proof that an easement has been recorded for parcel 2 for the 20' wide roadway/driveway easement as conditioned by the Road Commission on 1/16/06.
4. Prior to final plat, the applicant shall provide written certification from the Siuslaw Valley Fire and Rescue that the proposed addition of a satisfactory turnaround is sufficient for purposes of fire protection.

The Minor Partition approval will expire one year from the date of the final approval, if the Final Plat Map is not submitted to Dunes City and recorded before that date.

SUMMARY AND CONCLUSIONS

Based on the findings stated above, the preliminary minor partition meets the requirements of the Dunes City Development Code for approval with conditions. The proposed preliminary minor partition plat is consistent with all City Ordinances, plans and State and Federal laws.

RECOMMENDED DECISION

IT IS HEREBY ORDERED that the City Council of Dunes City approves with conditions the Charles H. Bang Jr. minor partition (MP 05-05) based on the information in the staff report and the findings of fact stated in this decision.

As per DCC 155.050 (B)(1) Unless appealed, City Council decisions shall become effective on the sixteenth day after being rendered. Tentative plan approval shall be effective for one year. This approval shall become final on the date this decision and supporting findings of fact are signed by the Mayor or a representative of the City Council of Dunes City. An appeal of the City Council's decision must be submitted to the Lands Use Board of Appeals within 21 days of the Council's decision becoming final.

Sheldon Meyer, Mayor
City Council of Dunes City

Date

**CITY COUNCIL OF DUNES CITY
STAFF REPORT**

MINOR PARTITION FOR MARVIN AND DARLENE BECKMAN
(FILE NO. MP 04-06)

Submitted:	March 6, 2006
Deemed Incomplete:	April 6, 2006
Deemed Complete:	June 27, 2006
120 Day Deadline	October 26, 2006
Property:	Tax Lot 200--Assessor's Map 19-12-00-00
Location:	Booth Island
Area:	Approximately 11.49 Acres
Zoning:	R-1 Residential District
Request:	Tentative partition approval to create three parcels
Applicant:	MARVIN AND DARLENE BECKMAN
Planning Commission	
Hearing Date:	July 20, 2006
City Council	
Hearing Date:	August 10, 2006

I. REQUEST

The requested action is to minor partition a 11.49-acre parcel into three parcels. The subject property is in the R-1 zoning district within the city limits of Dunes City. The Minor Partition Application was submitted on March 6, 2006 and deemed complete on June 27, 2006.

II. BACKGROUND AND CONTEXT

The City received a preliminary minor partition application from Marvin and Darlene Beckman for a three parcel partition on Booth Island in Dunes City.

The subject property is currently within the concurrent Dunes City city limits and Urban Growth Boundary. The proposed land division would divide approximately 11.49 acres into three parcels.

All parcels will obtain water from wells. All parcels will have onsite septic systems which will be installed at the time of building permit application.

IV. COMMENTS

A. AGENCY COMMENTS

None

B. PUBLIC COMMENTS

None

V. ISSUES

None

VI. RECOMMENDED DECISION

Based on the finding in the Draft Findings of Fact and Decision, staff recommends that the City Council approve the minor partition MP 04-06, Marvin and Darlene Beckman, not subject to conditions.

VII. POSSIBLE ACTIONS BY THE CITY COUNCIL

1. Approve the Minor Partition application based on the findings of fact in the Proposed Final Order.
2. Approve the Minor Partition based on the findings of fact in the Proposed Final Order, as modified by the City Council.
3. Move to continue the meeting to a certain date to provide the opportunity for the applicant to submit additional information and/or allow for more deliberation. The deadline for processing within 120 days mandated by state statutes is October 26, 2006.
4. Deny the Minor Partition Application.

VIII. ATTACHMENTS

1. Letter from Just Bucket Excavating, Inc. stating their opinion that the parcels would meet the standards required to obtain a septic permit.
2. Letter from Mark W. Christensen – G492 stating his opinion that the parcels could obtain water from wells.

IX. EXHIBITS

1. Application material submitted March 6, 2006
2. Planning Commission Minutes of July 20, 2006

**CITY COUNCIL OF DUNES CITY
FINAL ORDER
FINDINGS OF FACT AND DECISION
MINOR PARTITION FOR MARVIN AND DARLENE BECKMAN
(FILE NO. MP 04-06)**

Submitted: March 6, 2006
Deemed Incomplete: April 6, 2006
Deemed Complete: June 27, 2006
120 Day Deadline October 26, 2006
Property: Tax Lot 200--Assessor's Map 19-12-00-00
Location: Booth Island
Area: Approximately 11.49 Acres
Zoning: R-1 Residential District
Request: Tentative partition approval to create three parcels
Applicant: Marvin and Darlene Beckman
Planning Commission
Hearing Date: July 20, 2006

APPROVAL CRITERIA AND ANALYSIS:

The requested action is to minor partition a 11.49-acre parcel into three parcels. The subject property is in the R-1 zoning district within the city limits of Dunes City. The Minor Partition Application was submitted on March 6, 2006 and deemed complete on June 27, 2006.

APPLICABLE CRITERIA

Dunes City applies the following criteria from Dunes City Code §155.031, and City Ordinance No. 164 (amends 155.030) to applications for Minor Partition:

§155.030 (Ordinance 164) SUBMISSION OF APPLICATION

(A) An application shall be made by the owner of the property in question proposing the minor partition or his or her authorized agent on a form prescribed by the city and shall be submitted together with:

... A tentative map of the proposed minor partition, drawn at a scale of 1"=50' or other standard scale, by a surveyor who is a state registered engineer or registered state land surveyor.

RESPONSE: The proposal complies with this standard.

... The tentative map or an overlay shall include property boundaries, grade identification, contours, location of septic test holes, and existing easements and right-of-ways.

RESPONSE: *The proposal complies with this standard. The applicants have provided a letter from Just Bucket Excavating, Inc. who states: "...In our expert opinion, we feel that it is feasible that the standards can be met for septic systems on both of the above subject properties.", demonstrating that it is likely that the standards can be met.*

... A copy of the deed of record of the property and proof of current ownership and any other information, which may reasonably be required as determined by the city, shall also be included.

RESPONSE: *The applicant has provided proof of ownership, therefore complies with this standard. The applicant states the water for all parcels will be from wells. The applicants have provided a letter from mark W. Christensen – G492 who states "...I have drilled many water wells in this same formation but have no knowledge of any wells being drilled on Booth Island. I anticipate the rock formation would produce satisfactory low producing water wells;...", showing that water could be obtained by wells. If they do not drill wells, Dave Williams, Water Master has informed the City that water rights are available from Siltcoos Lake.*

§155.032 REVIEW BY CITY COUNCIL

The minor partition, upon recommendation for approval or denial by the Planning Commission, will be scheduled for consideration by the City Council at its next regular meeting. Consideration of the application may be postponed at the request of the applicant. The City Council shall approve, deny, or, when further information is required, postpone a decision on the application. Approval of the minor partition must include the affirmative findings as listed in §155.031

§155.031 REVIEW BY PLANNING COMMISSION

- (A) The minor partition shall be reviewed by the Planning Commission within 30 days of the submittal of the application. The Planning Commission shall recommend approval or denial of the application to the City Council, or when further information is required postpone a decision on the application.
- (B) Recommendation for approval must include affirmative findings that:
 - (1) The minor partition complies in all respects to the partitioning requirements and purpose of this chapter, the Comprehensive Plan, and the laws of the state.

- (2) The minor partition does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or any adjoining land or access thereto.

RESPONSE: BY COMPLYING WITH THE REQUIRED CONDITIONS, The minor partition can comply with the partitioning requirements and purpose of this chapter, the Comprehensive Plan, and the laws of the state.

- §155.081 STREETS.
- §155.082 ALLEYS.
- §155.083 EASEMENTS.
- §155.084 LOTS.
- §155.085 DRAINAGE.
- §155.086 PARTIAL DEVELOPMENT.
- §155.087 UNSUITABLE AREAS.
- §155.088 DEVELOPMENT LIMITATIONS.

RESPONSE: DCC §155.081 -155.088 applies only to the subdivision process. Therefore, the City is not applying it to the partition proposal.

- §155.089 ACCESS

RESPONSE: DCC §155.089 applies only to subdivisions. Booth Island is boat access only and does not have any streets, roads, or driveways, therefore, the City is not applying it to the partition proposal.

- §155.090 SOLAR ACCESS STANDARDS

RESPONSE: This standard shall be met through the building permit process.

§155.100 AGREEMENT FOR IMPROVEMENTS

(A) Before City Council approval of a subdivision plat or partition map, the city may require the land divider to either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the City Recorder an agreement between him- or herself and the city.

RESPONSE: DCC §155.100 applies only to subdivisions. Therefore, the City is not applying it to the partition proposal.

II. The Dunes City Planning Commission determined that the application for the Marvin and Darlene Beckman minor partition preliminary plan (MP 04-06) can meet the tentative plan review criteria listed in 155.080 and other applicable sections of the Dunes City Development Code. The applicant shall revise the preliminary minor partition plan and other information necessary to conform to requirements and conditions of the City Council's action, including but not limited to:

None

The Minor Partition approval will expire one year from the date of the final approval, if the Final Plat Map is not submitted to Dunes City and recorded before that date.

III. SUMMARY AND CONCLUSIONS

Based on the findings stated above, the preliminary minor partition meets the requirements of the Dunes City Development Code for approval without conditions. The proposed preliminary minor partition plat is consistent with all City Ordinances, plans and State and Federal laws.

IV. RECOMMENDED DECISION

IT IS HEREBY ORDERED that the City Council of Dunes City approves the Marvin and Darlene Beckman minor partition (MP 05-06) based on the information in the staff report and the findings of fact stated in this decision.

As per DCC 155.050 (B)(1) Unless appealed, City Council decisions shall become effective on the sixteenth day after being rendered. Tentative plan approval shall be effective for one year. This approval shall become final on the date this decision and supporting findings of fact are signed by the Mayor or a representative of the City Council of Dunes City. An appeal of the City Council's decision must be submitted to the Lands Use Board of Appeals within 21 days of the Council's decision becoming final.

Sheldon Meyer, Mayor
City Council of Dunes City

Date

**CITY COUNCIL OF DUNES CITY
STAFF REPORT**

MINOR PARTITION FOR BECKMAN ENTERPRISES, LLC.
(FILE NO. MP 05-06)

Submitted: May 11, 2006
Deemed Incomplete: June 9, 2006
Deemed Complete: June 27, 2006
120 Day Deadline October 26, 2006
Property: Tax Lot 3000--Assessor's Map 19-12-03-10
Location: Booth Island
Area: Approximately 15.25 Acres
Zoning: R-1 Residential District
Request: Tentative partition approval to create three parcels
Applicant: BECKMAN ENTERPRISES, LLC
Planning Commission
Hearing Date: July 20, 2006
City Council
Hearing Date: August 10, 2006

I. REQUEST

The requested action is to minor partition a 15.25-acre parcel into three parcels. The subject property is in the R-1 zoning district within the city limits of Dunes City. The Minor Partition Application was submitted on May 11, 2006 and deemed complete on June 27, 2006.

II. BACKGROUND AND CONTEXT

The City received a preliminary minor partition application from Marvin and Darlene Beckman for a three parcel partition on Booth Island in Dunes City.

The subject property is currently within the concurrent Dunes City city limits and Urban Growth Boundary. The proposed land division would divide approximately ~~11.49~~ 15.25 acres into three parcels.

All parcels will obtain water from wells. All parcels will have onsite septic systems which will be installed at the time of building permit application.

IV. COMMENTS

A. AGENCY COMMENTS

None

B. PUBLIC COMMENTS

None

V. ISSUES

None

VI. RECOMMENDED DECISION

Based on the finding in the Draft Findings of Fact and Decision, staff recommends that the City Council approve the minor partition MP 05-06, Beckman Enterprises, LLC, not subject to conditions.

VII. POSSIBLE ACTIONS BY THE CITY COUNCIL

1. Approve the Minor Partition application based on the findings of fact in the Proposed Final Order.
2. Approve the Minor Partition based on the findings of fact in the Proposed Final Order, as modified by the City Council.
3. Move to continue the meeting to a certain date to provide the opportunity for the applicant to submit additional information and/or allow for more deliberation. The deadline for processing within 120 days mandated by state statutes is October 26, 2006.
4. Deny the Minor Partition Application.

VIII. ATTACHMENTS

1. Letter from Just Bucket Excavating, Inc. stating their opinion that the parcels would meet the standards required to obtain a septic permit.
2. Letter from Mark W. Christensen – G492 stating his opinion that the parcels could obtain water from wells.

IX. EXHIBITS

1. Application material submitted May 11, 2006
2. Planning Commission Minutes dated July 20, 2006

**CITY COUNCIL OF DUNES CITY
FINAL ORDER
FINDINGS OF FACT AND DECISION
MINOR PARTITION FOR BECKMAN ENTERPRISES, LLC.
(FILE NO. MP 05-06)**

Submitted: May 11, 2006
Deemed Incomplete: June 9, 2006
Deemed Complete: June 27, 2006
120 Day Deadline October 27, 2006
Property: Tax Lot 3000--Assessor's Map 19-12-03-10
Location: Booth Island
Area: Approximately 15.25 Acres
Zoning: R-1 Residential District
Request: Tentative partition approval to create three parcels
Applicant: Beckman Enterprises, LLC
Planning Commission
Hearing Date: July 20, 2006

APPROVAL CRITERIA AND ANALYSIS:

The requested action is to minor partition an 15.25-acre parcel into three parcels. The subject property is in the R-1 zoning district within the city limits of Dunes City. The Minor Partition Application was submitted on May 11, 2006 and deemed complete on June 27, 2006.

APPLICABLE CRITERIA

Dunes City applies the following criteria from Dunes City Code §155.031, and City Ordinance No. 164 (amends 155.030) to applications for Minor Partition:

§155.030 (Ordinance 164) SUBMISSION OF APPLICATION

(A) An application shall be made by the owner of the property in question proposing the minor partition or his or her authorized agent on a form prescribed by the city and shall be submitted together with:

... A tentative map of the proposed minor partition, drawn at a scale of 1"=50' or other standard scale, by a surveyor who is a state registered engineer or registered state land surveyor.

RESPONSE: The proposal complies with this standard.

... The tentative map or an overlay shall include property boundaries, grade identification, contours, location of septic test holes, and existing easements and right-of-ways.

RESPONSE: *The proposal complies with this standard. The applicants have provided a letter from Just Bucket Excavating, Inc. who states: "...In our expert opinion, we feel that it is feasible that the standards can be met for septic systems on both of the above subject properties.", demonstrating that it is likely that the standards can be met.*

... A copy of the deed of record of the property and proof of current ownership and any other information, which may reasonably be required as determined by the city, shall also be included.

RESPONSE: *The applicant has provided proof of ownership, therefore complies with this standard. The applicant states the water for all parcels will be from wells. The applicants have provided a letter from mark W. Christensen – G492 who states "...I have drilled many water wells in this same formation but have no knowledge of any wells being drilled on Booth Island. I anticipate the rock formation would produce satisfactory low producing water wells;...", showing that water could be obtained by wells. If they do not drill wells, Dave Williams, Water Master has informed the City that water rights are available from Siltcoos Lake.*

§155.032 REVIEW BY CITY COUNCIL

The minor partition, upon recommendation for approval or denial by the Planning Commission, will be scheduled for consideration by the City Council at its next regular meeting. Consideration of the application may be postponed at the request of the applicant. The City Council shall approve, deny, or, when further information is required, postpone a decision on the application. Approval of the minor partition must include the affirmative findings as listed in §155.031

§155.031 REVIEW BY PLANNING COMMISSION

- (A) The minor partition shall be reviewed by the Planning Commission within 30 days of the submittal of the application. The Planning Commission shall recommend approval or denial of the application to the City Council, or when further information is required postpone a decision on the application.
- (B) Recommendation for approval must include affirmative findings that:
 - (1) The minor partition complies in all respects to the partitioning requirements and purpose of this chapter, the Comprehensive Plan, and the laws of the state.

- (2) The minor partition does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or any adjoining land or access thereto.

RESPONSE: BY COMPLYING WITH THE REQUIRED CONDITIONS, The minor partition can comply with the partitioning requirements and purpose of this chapter, the Comprehensive Plan, and the laws of the state.

§155.081 STREETS.

§155.082 ALLEYS.

§155.083 EASEMENTS.

§155.084 LOTS.

§155.085 DRAINAGE.

§155.086 PARTIAL DEVELOPMENT.

§155.087 UNSUITABLE AREAS.

§155.088 DEVELOPMENT LIMITATIONS.

RESPONSE: DCC §155.081 -155.088 applies only to the subdivision process. Therefore, the City is not applying it to the partition proposal.

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RESPONSE: DCC §155.089 applies only to subdivisions. Booth Island is boat access only and does not have any streets, roads, or driveways, therefore, the City is not applying it to the partition proposal.

§155.090 SOLAR ACCESS STANDARDS

RESPONSE: This standard shall be met through the building permit process.

§155.100 AGREEMENT FOR IMPROVEMENTS

(A) Before City Council approval of a subdivision plat or partition map, the city may require the land divider to either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the City Recorder an agreement between him- or herself and the city.

RESPONSE: DCC §155.100 applies only to subdivisions. Therefore, the City is not applying it to the partition proposal.

II. The Dunes City Planning Commission determined that the application for the Beckman Enterprises, LLC minor partition preliminary plan (MP 05-06) can meet the tentative plan review criteria listed in 155.080 and other applicable sections of the Dunes City Development Code. The applicant shall revise the preliminary minor partition plan and other information necessary to conform to requirements and conditions of the City Council's action, including but not limited to:

None

The Minor Partition approval will expire one year from the date of the final approval, if the Final Plat Map is not submitted to Dunes City and recorded before that date.

III. SUMMARY AND CONCLUSIONS

Based on the findings stated above, the preliminary minor partition meets the requirements of the Dunes City Development Code for approval without conditions. The proposed preliminary minor partition plat is consistent with all City Ordinances, plans and State and Federal laws.

IV. RECOMMENDED DECISION

IT IS HEREBY ORDERED that the City Council of Dunes City approves Beckman Enterprises, LLC minor partition (MP 05-06) based on the information in the staff report and the findings of fact stated in this decision.

As per DCC 155.050 (B)(1) Unless appealed, City Council decisions shall become effective on the sixteenth day after being rendered. Tentative plan approval shall be effective for one year. This approval shall become final on the date this decision and supporting findings of fact are signed by the Mayor or a representative of the City Council of Dunes City. An appeal of the City Council's decision must be submitted to the Lands Use Board of Appeals within 21 days of the Council's decision becoming final.

Sheldon Meyer, Mayor
City Council of Dunes City

Date

August 10, 2006

EXHIBIT G
PAGE 1

Dunes City Council

My goodness...I never expected to see this Ordinance 182 come up for approval again....there were found to be so many contradictions that have been addressed, not responded to and yet more and more keep cropping up.

For instance just today I tried to explore the minutes of the CCI Committee meetings over the "last few years"....I went to City Hall, called several people and scoured the City Council minutes back to 2003 on the web site.....you know....there are none (Judy Martin admits to throwing away her notes, what about Lee's notes?).

In fact, for the approximately 1 1/2 years (2004-2005) the committee met every Tuesday evening at City Hall, the meetings were advertised as "Planning Commission Work Sessions" for land use and zoning changes. As purported at these work sessions, the Planning Commission divided up the sections of the current code among the commissioners and were directed to fit them into the Model Cities Code, which, according to Bob Petersdorf, April 13, 2006 council meeting, was voted down in the beginning of the process by the City Council because of the "uniqueness of our area." Does anyone know for sure?

The fact some of the participants in those Planning Commission work sessions had never heard the words "CCI." makes it a bit confusing as to whether the Planning Commission revised the Ordinances or the CCI.??

To take this further, on August 11th, Judy Martin, newly appointed chair of the CCI, set a date of August 23, 2006 for reconvening the committee....when did it suspend its process? Then Judy Martin says the revision of codes was completed 2 months prior to the November 10 council meeting..... making the revision completed just 2 weeks after the CCI reconvened???

Does this all mean that the Goal 1: Citizen Involvement OAR 660-015-0000(1) has been violated? Are the Citizens being a part of this process?

To get back to the conflicts I found, as stated to the Council on April 13, 2006, in red lining the Revision / Combination of 155 /156 and the proposed 182...Did my efforts get reviewed by the Council? What is it that is preventing us from waiting until we can review the red-line that LCOG is in the middle of producing???

You know, that probably the greatest insult to this whole process is that LCOG's Current Revision efforts and vast amounts of work from the Moratorium Committee are not being considered as valid and cooperative work in this revision process at all....What is the hurry?.

Please withdraw this Ordinance 182 and get a more comprehensive revision in the end.

--

April 13, 2006 Dunces City Council:

I would first of all like to say that, I'm very sorry that I was unaware of the CCI process 2 years ago, so was unable to help those people that put in so many long hours. As a volunteer no one likes to be told "your work is not adequate" when you thought your efforts were for the best of the community, and you were the "citizen's community involvement".

At the first CCI meeting I attended last November, with a "new group" interested in the process, we were given a time frame of 60 days by the Committee Chair, in which to review the Revision 155, prior to it being sent on to the city council.

It became ever so obvious that "we" newcomers were a bit naive about Dunes City Politics. The Revision was pushed through the City Council two days later and on to DLCD for review. This "breach in trust" has set a stage for conflict and an unfortunate waste of a lot of time and energy trying to work at odds with each other.

As to the Ordinance Revision.....Dunes City has thus far refused to do a professional review of the new Ordinance package. So.....I have studied the documents 155/156 in the current ordinance, the Comprehensive Plan, the proposed Revision 155 and consulted the Model Small Cities Code for maybe 40 - 50 hours. **While** I have an incomplete and unedited copy of my findings., I have come to the conclusion that **FORMAT** of the ordinances was the focal point.....and I must agree it's better organized. **HOWEVER**.....the content is basically the same, but for the extremely judicious additions or deletions from the current to the Revision, fences get put here, signs on building get added there, youth camps removed.....
I will list a few more points I find questionable.

1. Our Comprehensive Plan calls for solar energy options and yet the total reference to Solar Energy has been deleted from the entire document. Solar access was sited in the comp plan as desirable, had its own ordinance, was stated in Ordinance 155, 155.002 Purpose "that solar access was to be provided and protected." That Purpose Section of our current ordinance happened to disappear in the revision.
2. Erosion and Surface Water Management have not even been addressed in the new document. This was mandated in the 1997 Comp Plan Revision **chapter IV (A) 1 (i) (5) Erosion, page 44 and 45. 155.3.5**
3. There is a direct contradiction in the two documents concerning "improvement" requirements before or after the final plat approval. **5.4.5.107 B and 155.100 Improvements (A)**
4. The Design and Development standards for PUD application requirements have been reduced by removing the requirement to provide maps of the contours of the property, before and after development. By removing requirements for Architectural Sketches, preliminary landscape plans and tree, and Plantings, all in the same section. **156.185(3)a and 155.4.5.105 B (1).**

5. Road grade changes from 7% to "10% on arterials, 12% on Collector Streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of up to 250 ".....have been taken from the Model Development Code and Users Guide for Small Cities, without any consideration that we are not a typical small city.....we have a tremendous natural resource to protect.

155.081 Street (I) 155.3.4.1 (N)

6. Taking out the possibility of having a PUD be a commercial enterprise and then adding Commercial Residential Care Facilities with no acreage guidelines is a contradiction (155.2.1.110 and 155.2.1.250). Our Comprehensive Plan states "The Retirement Industry shall be encouraged as the prime economic base of the city" . It seems to me that PUD type, cluster living centers with a little one room store and post box for the elderly could be a great possibility. 156.182 155.435.102 removes "two family houses and appropriate commercial" and other uses....
7. Has the PUD Zoning suffix been removed?
8. What is the definition of a "discretionary decision" on PUD's.??? 155.4.1.2 (c)
9. Is it true that on slopes over 16% "a geologists report or a foundation design by a licensed architect" is equal to "a geologists report or foundation design by an Oregon licensed engineer". The Comp Plan expressly says Oregon licensed Engineer. (Policy C6 Page 9).....and should the planning commission (used to be the Council) be now responsible for evaluating slopes from 12-16% especially when the comp plan states development on property over 12% is less desirable? Chapter IV (A) i (l) Slope.
10. How was the very first section of Wetland and Riparian Overlay Zone removed??
156.120 Conflicts:

"To best protect important values of wetlands, streams, lakes, and riparian areas, in the event that the requirements of this subchapter conflict with other ordinance requirements, the city shall apply the requirements that best provide for the resource.

You are welcome to go through this manual.....I have found it to have too much room for subjectivity and not enough basis on objective guidelines to protect our community and water resources in this time of rapid growth.

With this document being but a reorganization of inadequate codes and going on the fact that few of you know what words were taken in/out, I'd say hold off.

With all the community interest in getting better ordinances / BMPs I should think we could all work together and improve our Land Use / Zoning Ordinances.

Thank you....

Cynthia Chandler
4934 Lakeshore Drive
Florence – Dunes City

Aug. 10, 2006
Mark Chandler, 4934 Lakeshore Dr. Dunes City

I am deeply concerned about the apparent breakdown of due process in our city government. I would like to read some passages from the minutes of the April 13, 2006 city council meeting.

"Petersdorf said that prior to the revision process, the City Council voted to not recognize the model code document due to Dunes City's uniqueness."

If this is the case, that the city voted to not recognize the model cities code document; then the council cannot proceed with this revision without first rescinding that vote.

Another comment by councilor Hogervorst.

"The water quality concern for protection of streams and lakes is not in the current revision; therefore, outside help is needed. Hogervorst said he is working on getting money from grants to get the right people to help."

Through a great deal of effort by councilor Hogervorst a \$ 17,000 grant was secured from DLCDC. Under this grant ordinances relating to water quality are being developed. Why put the cart before the horse. A comprehensive approach to new ordinances will certainly give us a better end product. The "patched together" nature of our city code is the main reason that a revision was taken up.

Another passage from the same minutes.

"Darnielle said he could find parts in the revision that have questionable legality in being consistent with the Comp Plan, Section 92 of the ORS, etc. that would set out procedures."

This is the most pressing reason to take the time necessary to get this right. The city is paying LCOG right now to find and correct these inconsistencies and incorporate the concerns of the Committee for Citizen Involvement.

Now from the minutes of the Feb. 9, 2006 city council meeting.

"P. Howison made a motion to incorporate the CCI amended motions from the Planning Commission into the draft and take care of the decisions at the Public Hearing, except to change the recommendation of Type III and IV decisions which are to be made at the City Council level. J. Hogervorst seconded the motion. There was agreement by consensus. Motion carried."

So we have one motion passed not to recognize the document and here another passed that states that the CCI amendments must be included. Is the city going to follow the mandates of its previous actions or open itself up to legal challenge?

83505 South Cove Way
Dunes City. OR 97439

EXHIBIT I August 10, 2006
PAGE _____

City Council
Dunes City
82877 Spruce Street
Westlake, OR, 97493

RE: Ordinance 182

Mayor Meyer and Councilors,

Thank you for giving me the opportunity to speak this evening. As an appointed member of the Moratorium Support Committee I was shocked to learn that Ordinance 182 is on the agenda this evening. I oppose approval of this ordinance for all of the reasons stated in my earlier testimony regarding the issue and request that my earlier statements before you in this regard be incorporated as part of the record.

For Dunes City, this difficult ordinance approval process began last year with the discovery that proposed changes to the existing ordinance could not be tracked. At the October 13 Council Meeting, City Attorney Meham indicated that usually a red-line copy is provided pointing out changes. And Mayor Meyer suggested that someone bring back a report with how close we can get to a red-line comparison of the current code and the revision. This task remains undone.

More importantly, this proposed ordinance is based on the obsolete *Model Development Code and Users Guide for Small Cities* instead of LCDC's updated version and lacks adequate consideration of Dunes City's Comprehensive Plan as required.

ORS 197.175 (2) (b) requires that . . . each city and county in this state shall. . . Enact land use regulations to implement their comprehensive plans;

City Council, August 10, 2006

Page 2

That is, the City's land use ordinances must conform to, be consistent with, and adequate to carry out the intents of the City's Comprehensive Plan. The ordinance before you fails. Let me illustrate, Comprehensive Plan Policy E7 states, "*The city shall draft city ordinances regulating nonpoint source polluted runoff into lakes and streams . . .*" One would assume that the proposed ordinance would address this policy.

Rather, this is how the ordinance before you addresses Policy E7:

155.3.4.4 Storm Drainage Improvements

A. General Provisions. The City shall issue a development permit only where adequate provisions for storm water and floodwater runoff have been made in conformance with Section 155.3.5 - Surface Water Management.

(Sounds good.)

155.3.5 — Surface Water Management

[Reserved for Surface Water Management standards that may be adopted by City. Note: The Department of Land Conservation and the Development and the Department of Environmental Quality are planning to publish a model ordinance for Urban Surface Water Management/Water Quality that could be added to this document.]

I urge the Council to exercise your stewardship of Dunes City and reject this failed document. If the Council fails in this regard and enacts Ordinance 182, such action will prompt a serious appeal of your decision.

Thank you.



John Stead

DUNES CITY ROAD COMMISSION
REGULAR MEETING
JULY 17, 2006, 6:30 PM

ROAD REPORT

MINUTES

A. Call to Order and Roll Call

Present: Bob Petersdorf, Keith Herring, David Persons, Bill Connell,
George Burke, Linda Lauck, and Christy Lewis.

Excused: George McKenzie

B. Approval of Minutes – June 19, 2006

ACTION: Bill Connell made a motion to approve the June 19, 2006 Road Commission Minutes as submitted. Linda Lauck seconded the motion. There were 3 ayes, 0 nays. Motion carried.

C. Guests – None.

D. Citizen Input – None.

E. Unfinished/Old Business

1. Development of a Towing Ordinance – Update from Bob

Monte Deardorf has said no, but Bob will still work on it. Housely now has a fenced off area and Bob may be able to talk him into towing for the City. Bob will let the Road Commission know when he has made progress.

2. Fish Mill Update – Estimate from McAllister

Bob suggested adding 200-feet of improvement to go all the way around to Cherry. Bob said the City can go out for bid anytime after July. Linda Lauck reiterated that the Commission had decided not to go through with the Bedsoles latest agreement as suggested by Gary Darnielle. Bob told George Burke to go ahead with his retaining wall, since even though the estimate from McAllister stated that 2-feet would be taken from Burke's side, that will not be the case. The retaining wall in the quote is for the Morris property. It was decided that the City would not do a one-way street, but would need to get it paved. Bob said that when the road erodes away at Lake Blvd, the City will close that portion. Bob then said that if repairs could be made to the area for about \$2000 (similar to Ocean Blvd by the bridge), the City could make the repair.

3. **Little Woahink PUD**

There was discussion about Little Woahink Drive's length and due to the forested area, concern was voiced about only one access to leave the area should a fire occur. Bob said one way in, one way out would not suffice.

Conditions:

1. Little Woahink Drive shall be constructed so that it connects up with North Green Gate Road.
2. Roads and cul-de-sacs shall be dedicated to the City.
3. Installation of a street light shall be required at the end of each cul-de-sac.
4. The City Engineer shall review road and drainage plans before final plat approval.
5. During construction of the street, the City Engineer shall be contacted to inspect the road during the following stages: compaction of road bed before rock placement, compaction of road bed after rock placement, and paved surface.
6. Road names shall be approved by the Road Commission.
7. All road cuts adjacent to city streets shall be matted and hydro-seeded.

ACTION: Linda Lauck made a motion to recommend to the City Council the above list of conditions. David Person seconded the motion. There were 3 ayes, 0 nays, 1 excused. Motion carried.

F. **New Business**

1. **Mike McAllister – New Fee Schedule for Engineering Services**

ACTION: David Persons made a motion to recommend to the City Council that the revised fee schedule from Mike McAllister be approved. Bob Petersdorf seconded the motion. There were 3 ayes, 0 nays, 1 excused. Motion carried.

2. **Road Inspection Form and Procedure**

There was a discussion about how construction of City streets by developers should be inspected. Bob said that the streets are inspected now by the City Engineer who receives a phone call from the Road Inspector. Christy said that she knows of no inspections being performed at the present time and suggested a checklist and a process to ensure that inspections are being completed and inspections are documented in the street file. Linda suggested that when Keith calls McAllister about inspecting a street, he show that an inspection was called on his road report. Bob took a sample of a building inspection sheet and said he

would contact McAllister and they would come up with stages of road development for a City inspection checklist.

G. Unscheduled Items Not Listed on Agenda

1. Terrace Homes, Lake Drive

Dave Persons reported that Terrace Homes' contractor, Roy Ott, told Persons that the slope of the driveway was 13½ % and that the driveway that is being put in will direct water directly onto the street and across to the neighbor's property. Dave also said that a plumber was not used to perform the connection of the water line to the water system main line. Christy will refer the plumbing to the building inspector and get more information.

ACTION: Bill Connell made a motion to issue a Stop Work Order for 4955 Lake Drive. Terrace Homes is to provide a professional engineered drawing that addresses water run-off from the driveway. A copy of the engineered drawing is to be forwarded to the City Engineer for review at the contractor's expense. Linda Lauck seconded the motion. There were 3 ayes, 0 nays, 1 excused. Motion carried.

2. Meadow Lake Way

Bob Petersdorf requested that Laurel Crossing remove the logs before the City accepts the street (signing of the final plat). Bob is concerned that using equipment to load the logs would damage the newly paved road, and those repairs would also need to be made before the City accepts the new street.

H. Reports

1. Keith Herring, Road Inspector
Keith presented his report (see Exhibit A). Keith presented a bill for limbing and brush disposal of \$19.50.

ACTION: Linda Lauck made a motion to approve payment to Keith Herring for \$19.50. Bill Connell seconded the motion. There were 3 ayes, 0 nays, 1 excused. Motion carried.

ACTION: Bob Petersdorf made a motion to have a letter sent out to Sheldon Meyer requiring a Temporary Right of Way Use Permit for parking of a truck and boat trailer in the right-of-way subject to the approval/denial of the Road Commission.. Bill Connell seconded the motion. There were 3 ayes, 0 nays, 1 excused. Motion carried.

2. Christy Lewis, Road Secretary
Christy rescinded her letter of resignation.
3. Bill Connell, Road Commissioner – None

4. Linda Lauck, Road Commissioner – Linda thanked Dave and Lucy Persons for their help with painting two of the Council Room walls in preparation for the Festival of the Lakes.
5. Dave Persons, Road Commissioner – Dave said the Ford Way sign has been stolen. Linda suggested painting the post with the street name. Linda will provide the paint.
6. George Burke, Planning and Road Commissioner – George suggested a turnaround at the end of Woodland Lane using some of the Bang property. Bob said that in the past, the property owners did not agree to a proposed turnaround and it would be up to those owners to put in a turnaround on their own to avoid having people drove onto their private property to turnaround. George will approach Mr. Bang with the proposal.
7. George McKenzie, Road Commissioner – Excused.
8. Bob Petersdorf, Road Chairperson – Bob suggested posting the Road Office Hours of Tuesday and Wednesday, 10 a.m. to 2 p.m.

I. **Adjournment** - Meeting adjourned at 9:45 p.m.

ROBERT PETERSDORF

CHRISTINA LEWIS

DUNES CITY ROAD COMMISSION
SITE REVIEW
JULY 20, 2006, 12:15 PM

EXHIBIT J
PAGE _____

MINUTES

Present: Bob Petersdorf, Keith Herring, David Persons, Bill Connell, George Burke, Linda Lauck, George McKenzie, Contractor Gary Cooper, and Christy Lewis.

The Road Commission gathered for an emergency site review to address the Stop Work Order issued to Terrace Homes for construction of a driveway that exceeds 10% slope at the property located at 4955 Lake Drive. Cooper said the driveway has a 25% slope.

Cooper proposed using a 12" channel drain inserted towards the bottom of the concrete driveway to capture water run-off, keeping the water off Lake Drive. Cooper said his engineer, Ron Manseth, proposed capturing water in a 240 cubic foot bio-swale pond located to the right of the driveway. Cooper offered an option of ditching, and using a series of culverts crossing two other driveways to divert water onto the City right-of-way. George McKenzie said that a culvert traversing a driveway should be a minimum of 16 feet in length. The right-of-way boundary was checked and Keith Herring marked the driveways with orange spray paint indicating the position of the culverts. Run-off will be directed onto the City right-of-way.

Cooper agreed to the channeled drain and said the driveway could be sloped to direct water into a series of culverts. Cooper promised that there would be no erosion from the ditch line towards the street after six weeks (August 31st). Cooper agreed that he would notify the road inspector when the gutter drain is installed, before pouring concrete for the driveway, and during the trenching of the culverts.

There was a discussion where Bob Petersdorf requested that the cut in the pavement for the waterline should be patched with a 50-foot patch tapered at each end. Cooper said he was not an expert on asphalt, but thought that the preferred method of patching involved butting up the edges of the new pavement and old pavement. Christy Lewis said during her research prior to allowing Terrace Homes a pavement cut, Lane County and the City of Florence, who recently had a newly engineered procedure for asphalt cuts, recommended butting edges. In addition to the waterline cut, Cooper shall cut the pavement back 16-inches from the damaged cracked road edge and patch with new asphalt.

ACTION: George McKenzie made a motion to lift the stop work order based on the recommendation stated above, to be completed by August 31, 2006. An engineered drawing would be waived. Linda Lauck seconded the motion. There were 5 ayes, 1 nay (George Burke). Motion carried.

Bill Connell removed the Stop Work Order sign from the property.

ROBERT PETERSDORF

CHRISTINA LEWIS

August 3, 2006

Mr. and Mrs. Don Jewell
4036 Redwood Ave.
Grants Pass, OR 97527

**SITE REVIEW
REPORT**

Re: Map 19121540, Lot 600, 4995 Lake Drive

Dear Mr. and Mrs. Jewell,

Several of your neighbors appeared at the City Council meeting on July 13, 2006 to complain of rental activities at the above property.

This area is zoned single-family residential and your agent, Dolphin Property Management, has been advertising it on their website for some time now as a fishing resort capable of sleeping ten people. Neighbors complained it has been rented to large groups for short periods of time during the past several weeks almost continuously – for example, a family reunion of Hindi (four men and their families), ten families alternating between the Sand Dunes Frontier campgrounds and your residence at another time, twelve Harley riders during the Rhodie Festival disturbing the peace and tranquility of the neighborhood. The neighbors complained of excessive noise, drunkenness, partying until the wee hours of the morning, and on one occasion sexual activity in the common area. They also complained about parking multiple RV's and other vehicles on the road right-of-way, obstructing fire equipment access and other access. In addition, a neighbor adjacent to the property is concerned about fire hazard – the area is wooded and one group launched fireworks from the deck over the 4th of July holiday.

Since the Council meeting, the City has been informed you have been contacted by your neighbors and have voluntarily agreed to cancel your rental agreement with Dolphin and the rental activity described above will cease. On August 2, we were informed the last week of July an extended family (estimated to be 20 people including children) occupied the property, and it is our understanding this was the final group rental which would occur. We are glad this situation has been resolved amicably, but want you to know this type of activity violates the following Dunes City ordinances and will not be condoned:

Ordinance 156.061 Permitted Buildings and Uses. This Ordinance permits one single-family dwelling per lot. Permitted uses do not include bed and breakfast rentals, rental as a resort, or rental to multiple families.

Ordinance 90.01 Jurisdiction and Control over Public Rights-of-Way. Parking on a public right-of-way requires a permit.

Ordinance 91.13 Nuisances Affecting Public Peace.

(2) Using an engine, thing, or device that is so loaded, out of repair, or operated in such a manner that it creates a loud or unnecessary grating, grinding, rattling, or other noise;

(3) Using a mechanical device operated by compressed air, steam, or otherwise, unless the noise by it is effectively muffled;

(4) Using or operating an automatic or electric phonograph, loudspeaker, or sound amplifying device so loudly that it disturbs persons in the vicinity.

(B) Noise is presumed to be unreasonable if, during the hours of 7 a.m. to 6 p.m., it is audible to a person of normal hearing at a distance of 75 yards, or, during the hours of 6 p.m. to 7 a.m., it is audible at a distance of 50 yards.

Ordinance 10.99 General Penalty.

(A) Any person violating any provision of this code for which no other specific penalty is provided shall, upon conviction, be punished by a fine not to exceed \$500 per day.....

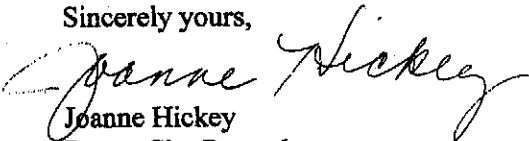
(D) Each calendar date on which a violation occurs constitutes a separate violation.

In addition to the above, the community water system is not designed to handle this increase in occupancy. The system has a 2500 gallon holding tank used for chlorinating the water. To be effective, contact time should be 24 hours. This cannot occur when a large increase in water volume is continuously drawn through the system. There have been two cases of giardia recently and for the first time, the water tested positive for coliform bacteria, not harmful to a healthy person but putting someone with impaired immunity at risk. Although the City does not regulate private community water systems, the City is concerned about any activity that adversely affects the health of its citizens.

According to Lane County records, the original house on this property was built in 1973 and substantially enlarged recently with no upgrade to the septic system. The septic system was never intended to handle the volume of waste water incidental to the rental activity described above, and possible failure of the system could be a threat to the health of the community.

It is our understanding you were completely unaware of the rental activities at your property and, as mentioned previously, have taken action to correct these problems. However, we felt it appropriate to alert you that conviction for future violations may result in fines which, if unpaid, may result in a lien being placed on the property.

Sincerely yours,


Joanne Hickey
Dunes City Recorder

Cc.: Mayor/City Council