



City Council Meeting Minutes ~ Approved
July 8, 2010 at 7:00 pm
City Hall - 82877 Spruce St., Westlake, OR 97439

1. Call to order

Mayor Eric Hauptman called the meeting of the Dunes City Council to order at 7:02 p.m.

2. Roll call

Roll Call was taken by Fred Hilden, City Recorder.

Present: Mayor Eric Hauptman, Council President Peter Howison, Councilor Richard Koehler, Councilor Jamie Mills, Councilor Susie Navetta, Councilor Rebecca Ruede, and Councilor Troy Sathe.

Absent: None

Also Present: Fred Hilden, City Recorder, Lisa Ekelund and 19 individuals.

3. Pledge of Allegiance

All who were present stood for the Pledge of Allegiance.

4. Approval of the agenda

Councilor Howison made the motion to accept the agenda as proposed. Councilor Ruede seconded the motion. The motion passed by unanimous vote.

5. Consent agenda

- City Council meeting minutes from 06/10/2010
- Bills of the session through 07/01/2010
- Receipts of the session through 07/01/2010

Councilor Navetta requested to pull the Bills of the Session.

Councilor Howison made the motion to approve the consent agenda with the removal of the Bills of the Session to be considered later. Councilor Sathe seconded the motion. The motion passed by unanimous vote.

Mayor Hauptman asked if Councilor Navetta would like to discuss the Bills of the Session.

Councilor Navetta asked why there is no bill for the City Attorney.

Fred Hilden said he requested that the City Attorney provide the bill to the City in a timely manner. Fred said the Attorney called stating they would not send a bill this month because they are still evaluating the charges. Fred said the City would need clarification of the June portion of the bill we would receive for June and July at the end of July for the purposes of the audit and the City Attorney agreed.

Councilor Navetta said on correspondence, there is a bill listed.

Fred Hilden said the bill listed in correspondence on June 3rd is the billing for May that was approved at the June 10th Council meeting.

Councilor Sathe made the motion to accept the Bills of the Session as they are proposed. Councilor Koehler seconded the motion. The motion passed by unanimous vote.

6. Announcements / Correspondence

Mayor Hauptman announced the following:

- July and August Artist of the Month is Judeen McIlhagga (A few of her beautiful things).
- Volunteers are still needed for the Revenue Committee.
- A cougar was sighted June 28th just south of the Siltcoos River Bridge.

7. Citizen Input

Mayor Hauptman said this agenda item is for items that are not listed on the agenda.

No one spoke from the audience.

8. Mayor's report

Mayor Hauptman said he did not have a report for this month.

9. Committee / Commission reports

- Councilor Navetta presented a written report of the Community Center.
- Councilor Navetta gave a verbal report of the Communication and Education Committee.
- Councilor Howison gave a verbal report of the Conservation Committee.
- Councilor Howison said he had no report for the Ordinance Review Committee.
- Councilor Ruede presented a written report of the Parks and Recreation Commission.
- Councilor Sathe presented a written report of the Road Commission.
- Road Secretary, Selena Carter provided the draft minutes of the 05/21/10 Road Commission meeting.
- Councilor Mills gave a verbal report of the Site Review Committee.
- Councilor Mills gave a verbal report of the Revenue Committee.
- Councilor Koehler presented a written report of the Water Quality Committee.
- Councilor Koehler provided the draft minutes of the 06/16/10 Water Quality Committee meeting.
- Lisa Ekelund presented a written report of the Planning Department.

- Lisa Ekelund provided the draft minutes of the 04/06/10 Planning Commission meeting.
- Don Hayes provided a written report of Emergency Services.
- Fred Hilden presented a written City Recorder's report.

10. Presentation

- Water Testing Data for Woahink and Siltcoos Lakes presented by Mark Chandler

Mark Chandler presented charts that illustrate the data gathered by volunteers trained by the Oregon Department of Environmental Quality (DEQ) and the Siuslaw Watershed Council. Mark said the monitoring program is funded by Dunes City. Mark said three water quality parameters are examined, clarity, chlorophyll-a, and total phosphorus. Mark said trend-lines are applied to the clarity charts where there is adequate data and it provides useful information. Mark explained how the measurements are taken. Mark said the greatest visibility in Siltcoos Lake was in 2006 with less in the most recent years reflecting the algal blooms that are very apparent in the fall of 2007 and 2008. Mark said levels of Chlorophyll-a, in micrograms per liter are located at two sites on Woahink Lake from 2004 up until June of 2010. Mark said higher levels indicate elevated presence of algae in the water. Mark said the higher data points are generally associated with springtime blooms. Mark said the predominate species of the blooms do not raise health concerns; they can impart an unpleasant taste and odor to the water. Mark said the average level over the 6+ years is fairly stable. Mark said they have measured the level of Total Phosphorus in micrograms per liter at the Woahink Atlas site, 2005 up until June of 2010. Mark explained cause and effect of phosphorus. Mark said the highest levels of phosphorus correspond with fall algal blooms. Mark said water quality in Woahink Lake is generally good and stable at present with relatively minor spring algal blooms; in Siltcoos Lake, the City has seen more significant blue-green algal blooms in 2 of the past 3 years, which is also reflected in the data.

11. Public Hearing

- Vacation proceeding for the Samuel Haig Jameson Gateway Road

Mayor Hauptman said this agenda item is a public hearing on Ordinance #207, an ordinance vacating the Samuel Haig Jameson Gateway Road, established as a public right of way by the order of the Lane County Court dated January 8, 1940.

Mayor Hauptman said this vacation proceeding was initiated by a motion of the Council at its regular meeting held on June 10, 2010, at the request of the developers for Woahink Ridge Estates Planned Unit Development.

Mayor Hauptman asked if any of the Councilors have any ex-parte contacts, conflicts, or abstentions to declare and none of the Councilors spoke.

Mayor Hauptman opened the agenda item for a public hearing at 7:47 p.m.

Mayor Hauptman asked if all of the Councilor had an opportunity to review the vacation ordinance along with Exhibit A to the ordinance.

Councilor Navetta said she believed that they were promised a map.

Mayor Hauptman asked Councilor Navetta to clarify what map she believed was promised.

Councilor Navetta said the map was to show where the area is.

Councilor Sathe showed Councilor Navetta the map.

Councilor Navetta said she is concerned about the area at the end of the subdivision because it varies from map to map. Councilor Navetta said in one map that was presented by Ward, there was an old road that went through the wetlands and the new proposed road, which she (Councilor Navetta) imagine is the road they have there now but the road has a beginning and it has an end and she (Councilor Navetta) wants to know what the end looks like. Councilor Navetta said she wants to know where it stops.

Mayor Hauptman asked if Councilor Navetta wants to know actually, physically right now at this point, where it stops.

Councilor Navetta said at any time.

Mayor Hauptman said this would be on the final plat submission, it would show exactly where the road ends.

Councilor Sathe said the road that is there now is what has been approved with this plat. Councilor Sathe said the original road runs over the swamp and that is the piece that they are going to vacate which is the original one that Councilor Navetta is speaking of. Councilor Sathe said the original road ends right at a person's garage and it does not line up with the existing road. Councilor Sathe said the original road is not located in a feasible location and the most feasible location is the road that is currently there. Councilor Sathe said they would not want to fill in a wetland to make the road lay in its original location.

Councilor Navetta asked how this road would affect Michael Cocciolo.

Councilor Sathe said the road goes up to Michael Cocciolo's driveway. Councilor Sathe said the road lines up and they do not feel the developers need to pave any farther as they are paved up to the next property as required by City code.

Councilor Navetta said so Michael Cocciolo will have access to his property.

Councilor Sathe said Michael Cocciolo's property continues right off the end of the paved road.

Councilor Navetta said what about the other people like Carter and Murdock.

Mayor Hauptman said the road is as far as they can run the road. The Mayor said there were limitations; it was based on their original submission of the preliminary plat that was approved. The Mayor said the City cannot require the developers to build a road to accommodate somebody else's development, it has to go to the next developable piece of property, which it does and that is where the road ends, and it does not go beyond that.

Councilor Navetta asked if the road goes to the end of the PUD and Mayor Hauptman said yes.

Councilor Navetta asked the Mayor if the road now goes to the end because it did not before.

Mayor Hauptman said to take the road any farther; they would have had to put a bend in it that would not make any sense whatsoever because the road would go through a garage.

Mayor Hauptman asked if there were any further questions.

Councilor Howison asked if he is correct that the road they are vacating is the road that does not

follow the common sense road that was approved in the preliminary plat. Councilor Howison said so we are just vacating the old road and the current road that is described in the development will be dedicated.

Councilor Mills said the Samuel Haig Jameson Gateway Road as it appears is under the application tab number 4. Councilor Mills said the applicant has made this clearer if you look at exhibit B under tab 4, it shows the location of both roadways.

Councilor Howison said the road they are considering vacating is going through the wetlands. Councilor Navetta pointed out her concern on the map and asked if the road goes all the way.

Councilor Sathe said the road is as good as it can be done.

Mayor Hauptman asked if there were any more questions from the Councilors.

No one spoke.

Mayor Hauptman asked if City Staff has any additions to the record regarding this proceeding.

Fred Hilden explained the documents that were presented to the Council. Fred explained his affidavit of service and posting. Fred said there is a larger copy of the map that was provided should the Councilors wish to review it.

The Mayor asked if there was anyone in the audience that would like to comment.

Mike Reeder Attorney for John Murdock ~ 800 Willamette St., Suite 800 Eugene, OR 97401

Mr. Reeder said he represents John Murdock who is a property owner that lives beyond the road extension. Mr. Reader said Mr. Murdock did receive the actual notice of the vacation of this road but because of the name of the gateway road, it threw many people off. Mr. Reeder said Mr. Murdock was unaware that this particular vacation action was going to be coming before the City Council. Mr. Reeder said he has only had about two days to come to terms with and review all of the information. Mr. Reeder said he has not even been able to receive the information needed to analyze this vacation issue. Mr. Reeder said his request tonight would be to defer this action to the next City Council meeting so that they might be able to evaluate the merits of the vacation of this gateway road. Mr. Reeder said he just spoke to Mr. Kloos who informed him that there was some analysis done by County Council regarding the authority of the City Council to vacate this road and he (Mr. Reeder) has not had a chance to review that analysis. Mr. Reeder said this concerns him and he would like to have the opportunity to review it. Mr. Reeder said a particular concern is whether or not the City can vacate a County road within the jurisdiction without action by the County. Mr. Reeder said the very preliminary research that he has done, casts this into doubt but he has not had an opportunity to get his hands on the information that would clarify it. Mr. Reeder said he is not saying this action that the Council would be taking tonight would be premature, he is just saying that it may possibly be premature and he would like an opportunity to review it and provide some comment.

Councilor Koehler asked Mr. Reeder to tell the Council the concern of whom Mr. Reeder is representing has regarding the vacation. Councilor Koehler asked if the concern is purely just technical because of the connection with the County or is it something that would have hazards or repercussions regarding his property.

Mr. Reeder said he would love to answer that question but he cannot because he has not had a chance to analyze the action that is before the Council tonight. Mr. Reeder said it is more of an

issue of "we don't know, we need some time to analyze." Mr. Reeder said it has to do with the ability in the future to utilize that portion of the property that was deeded from Lane County to the developers of the PUD, which he believes subsequently, has been transferred or will be transferred to the City. Mr. Reeder apologized because of the lateness of himself being brought in on the case; it is difficult for him to give Councilor Koehler a straight answer.

Fred Hilden said it is his understanding after talking to legal council today that one of the indexed items in the book speaks to this issue and is in fact a two page email exchange with Lane County where they (Lane County) states Lane County has no jurisdiction.

All of the Councilors turned to the tab indicated by Fred Hilden.

Mr. Reeder said they are not concerned about technicalities; they are concerned with possible substantive rights being taken away from his client. Mr. Reeder said what he cannot tell the Council is whether or not that is the case without being able to review the proposed ordinance that is being considered tonight, nor the background information and the analysis done by Mr. Kardell (Attorney from Lane County). Mr. Reeder said he would just like an opportunity to do that.

Councilor Koehler asked if there was anything wrong with the way they made public notice of this or a way it could have been done better.

Mr. Reeder said practically speaking; he thinks the way it could have been done better is if there was maybe some parenthetical statement saying that it was Greengate Road. Mr. Reeder said he is not pointing fingers, the road was, and he has reviewed the 1939-1940 materials and that is the name of the road that is to be vacated so he does not have a real issue with that, it is more of a practically speaking, what happened was, it did not come to his client's attention because his client did not recognize it. Mr. Reeder said he does not know if there were any actual legal deficiencies in the notice process. Mr. Reeder said he thinks Fred has probably done a good job of following the requirements of the Statute that require notice. Mr. Reeder said the real issue is whether or not the City Council has jurisdiction to weigh in on a matter before Lane County has.

Mayor Hauptman asked Mr. Reeder to clarify if he is speaking of the Samuel Haig Jameson Gateway Road, or the strip of land that the County sold to the developers.

Mr. Reeder said he was speaking of the gateway road. Mr. Reeder said as an example to the Council, when he came to this meeting, he did not know, because he did not have the material in front of him, he did not know how far that gateway road, as outlined in the order in 1940, how far that extended, so if you were vacating that road and that road went past the limits of the PUD, then he would have a real concern about that, it has been expressed to him by Mr. Kloos tonight that this is not the case, however, that is the challenge he is dealing with, he is not pointing any fingers, it is certainly not the City's fault, it is just a practicality that he has to deal with and he is asking that the City Council indulge him a bit so that he can get up to speed on the issue.

Mayor Hauptman said this was initially introduced at their last City Council meeting. The Mayor said this is not the first introduction of the vacation.

Mr. Reeder said he understands. Mr. Reeder said his client is a resident of Virginia and gets information rather piecemeal.

Mayor Hauptman asked if Mr. Reeder's client is on the interested parties list.

Fred Hilden said he was not sure.

Mayor Hauptman said this is something, particularly in the future, to get on that list because the City sends emails of the agenda and whatnot to the interested parties.

Mayor Hauptman asked if there was anything else from the Council.

Councilor Mills asked Fred Hilden if they have a time limit they are supposed to act within according to the settlement agreement.

Mayor Hauptman said the point is that the City has done everything they possibly could to notify the citizens. The Mayor said it is his opinion that the fault lies with Mr. Reeder's client and that it would be extraordinary for the Council to delay this because Mr. Reader's client, for whatever reason, did not inform himself.

Mr. Reeder said that is why he is coming before the Council as a request. Mr. Reeder understands the predicament that the City Council is in and he can sympathize with the Council, however, it is important for his client that they have an opportunity to actually analyze that. Mr. Reeder said for what it is worth, they have been working very hard in the last couple of days but he received the information from his client two days ago, his client received the information about this vacation issue on July 4 and tried to secure legal council as quickly as possible. Mr. Reeder said there was a conflict and so that is why there was a delay. Mr. Reeder said again that he is not pointing any fingers and he can see in just a few days how hard staff for Dunes City works for the City Council and it's to be commended.

Mayor Hauptman asked if there were any further questions for Mr. Reeder and no one spoke.

A gentleman spoke from the audience requesting to ask a question and the Mayor allowed him to speak.

The gentleman asked if this is the same road that was called Greengate Road last year.

The Mayor answered the gentleman stating yes.

The gentleman said anyone who was familiar with the controversy would have thought that this was not that road.

Councilor Howison said this is the old road that is being vacated; it is not the current Greengate Road.

The Mayor said it is not the current Greengate Road and the official name of the road being vacated is the Samuel Haig Jameson Gateway Road so that is what we have to act on and that is what we have to declare.

Mr. Reeder left his seat before the Council and returned to the audience.

Bill Kloos ~ 375 W 4th St, Suite 201 Eugene, OR 97401

Mr. Kloos approached the Council saying he would like to respond to a couple of points Mr. Reeder made and answer any questions the Council might have. Mr. Kloos said that Mr. Reeder is very new to this as of yesterday. Mr. Kloos said his clients, from what he understands at this point, are two people, Mr. Murdock and Mr. Cocciolo. Mr. Kloos said for the last six months Mr. Murdock has had another attorney who he (Mr. Kloos) has been working with hand in hand, very closely so Mr. Murdock's attorney up until a couple of days ago when Mr. Murdock shifted gears, possibly at the request of Mr. Cocciolo. Mr. Kloos said Mr. Murdock, through his former attorney,

just had a complete grasp of this situation and knew exactly what the proposal was. Mr. Kloos said the old attorney received survey maps of Greengate Road as platted, as developed, location of Mr. Murdock's easement on the plat, proposals to swap out easements to clean things up, and he was totally comfortable that it was all going to work out just fine and then as of a week or so ago he shifted gears. Mr. Kloos said he understands why Mr. Reeder does not have a feel for the details because Mr. Reeder is brand new to the party but his client is totally on top of things. Mr. Kloos said the Council has everything they need to know to understand this thing to death. Mr. Kloos said the business about who is in charge of vacation, what the footprint of the vacation is, exactly who is going to be effected, what the language of the ordinance has to look like, etc. Mr. Kloos said the City Attorney has been on top of this and the City Attorney is comfortable with it. Mr. Kloos said this is clean. Mr. Kloos said the gateway road starts at Clear Lake and goes down to the south property line, that is what was dedicated and that is what is being vacated. Mr. Kloos said that what is being vacated is the alignment of that road from 1940, it has never been developed, and it kind of overlaps portions of the new road. Mr. Kloos said Mr. Murdock has never used any part of that road except to the extent that he has used the as traveled Greengate Road which is now going to be a City road. Mr. Kloos said with that respect, Mr. Murdock is absolutely unharmed by this vacation. Mr. Kloos said nobody is harmed by this. Mr. Kloos said Mr. Murdock's situation is exactly like everybody else's situation. Mr. Kloos said he provided the City Recorder with a larger version of the map that shows centerline of the 1940 Gateway on top of the proposed final plat. Mr. Kloos said it shows the existing Murdock easement which runs around the perimeter of the property. Mr. Kloos said this easement was never used and never developed; it is just an easement from 1962.

Mayor Hauptman asked how they got a centerline of the road if it had never been surveyed.

Mr. Kloos said it is surveyed. Mr. Kloos pointed to the survey document under tab 26 in the plat application.

Mr. Kloos said Mr. Murdock had a different attorney in which Mr. Kloos was in close contact with. Mr. Kloos said the prior attorney understood exactly what the proposal was and was comfortable with it. Mr. Kloos said Mr. Murdock shifted gears just a week ago. Mr. Kloos said there is everything that is needed to understand the proposal in the application. Mr. Kloos said the City Attorney has been on top of this, he is comfortable with it, and it is clean. Mr. Kloos explained the alignment of the gateway road. Mr. Kloos said Mr. Murdock has never used the gateway road as he has only used the current road. Mr. Kloos said Mr. Murdock would be unharmed by this vacation. Mr. Kloos explained an easement Mr. Murdock has from 1962 and this has also never been used. Mr. Kloos said the as developed road is the common sense route that everyone has used for years. Mr. Kloos said Mr. Murdock's situation is no different from anybody else's situation.

Councilor Mills said because this is a court order that they are assuming it is now a closed action, would the City have to petition with the court for the vacation.

Mr. Kloos asked if Councilor Mills is referring to tab 26, which was the 1940 order, and Councilor Mills said yes.

Mr. Kloos said this issue was the subject of the dialogue between the County Surveyor, the County Attorney and the City Attorney. Mr. Kloos said they started that dialogue because they needed to understand who is in charge. Mr. Kloos said the County Attorney and the County Surveyor concluded based on State Statutes that even though the County Court created the road in 1940, since after that time, the road came into the jurisdiction of the City because it is part of the City. Mr. Kloos said the jurisdiction to actually vacate under the Statues that provide for vacation, jurisdiction lie with the City so the County basically backed off, threw their hands up and said they

are not going to vacate the road because they (the County) don't have the authority to vacate. The County said to go do the vacation with the City.

Mr. Kloos left his seat before the Council and returned to the audience.

Councilor Mills said as she recalls, when this all started and the Gateway Road was blocked off, somehow the County Commission got involved.

Mayor Hauptman said there was a resolution done in 2008 by the County Commission.

Mayor Hauptman asked if anyone else would like to speak and no one spoke.

Mayor Hauptman Closed public hearing at 8:13 p.m.

Mayor Hauptman asked if any of the Councilors have any additional questions.

Mayor Hauptman said he would now entertain a motion for the first and second readings of Ordinance #207, an ordinance vacating the Samuel Haig Jameson Gateway Road, established as a public right-of-way by the order of the Lane County Court dated January 8, 1940.

Councilor Koehler made the motion to read Ordinance #207 by title only. Councilor Sathe seconded the motion. The motion passed by unanimous vote.

Mayor Hauptman read the City of Dunes City, Ordinance #207, an ordinance vacating the Samuel Haig Jameson Gateway Road, established as a public right-of-way by the order of the Lane County Court dated January 8, 1940. Mayor Hauptman repeated that this is Ordinance #207.

Mayor Hauptman asked for a motion on the Ordinance.

Councilor Sathe made the motion that they pass Ordinance #207. The motion was seconded by Councilor Ruede. The motion passed by roll call vote, which is as follows:

Councilor Navetta	aye
Councilor Sathe	aye
Councilor Koehler	aye
Councilor Howison	aye
Councilor Ruede	aye
Councilor Mills	aye

12. Unfinished / Old Business

- Final Plat Application for Woahink Ridge Estates PUD

Mayor Hauptman said they are going to look at the final plat application for Woahink Ridge Estates PUD. Mayor Hauptman said the scope of the Council's action on this agenda item is whether the Woahink Ridge Estates final plat and final PUD application is in compliance with and substantially conforms to the terms and conditions of approval of the preliminary Woahink Ridge Estates PUD plan and plat with the inclusion of the 9/14/09 settlement agreement between the City and developers. Mayor Hauptman said this agenda item is not a quasi-judicial procedure or a land use or limited land use decision, as defined under statute, but rather more of a non-discretionary decision. Mayor Hauptman asked if any of the Councilors have any questions about the scope of this agenda item.

No Councilors spoke.

Mayor Hauptman asked if all of the Councilors have had the opportunity to review the final plat and the final plat application as received from the developers.

No Councilors spoke.

Mayor Hauptman asked Lisa Ekelund to summarize her staff report / findings of fact dated 6/8/2010 and summarize also, the final engineering report dated 6/10/2010.

Lisa Ekelund read the reports as directed by the Mayor.

Mayor Hauptman asked if there were any questions.

Councilor Sathe said he was just looking at the paper received from Councilor Navetta and when they get to this point, he can answer most of those questions because it is what the Road Commission went through while reviewing the application.

Mayor opened the agenda item for public comment at 8:23 p.m.

Mike Reeder Attorney for John Murdock ~ 800 Willamette St., Suite 800 Eugene, OR 97401

Mr. Reeder said again that he represents Mr. Murdock in this and the purpose of him coming here tonight is not necessarily to provide comment that would cast doubt on the actual PUD application itself. Mr. Reeder said it sounds like this has been a PUD application that has had a lot of scrutiny, a lot of issues, and the City has a settlement agreement. Mr. Reeder said the issues that he has reviewed for his client have to do with the transfer of the County property, the 20-foot strip of property, to the developers of the PUD and then the subsequent quitclaim deed from the developers to the City. Mr. Reeder said the question that he has for the City Council at this time is, what is going to occur on that 20 foot strip of property that is to be transferred to the City, specifically there is a letter from Lane County dated 9/28/2009, which is a letter from Lane County to Mr. Murdock who he also represents in that the content of the letter talks about this transfer of this property to the developer and then from the developer to the City and Lane County staff says that the intent of the sale to the owners of taxlot 1400 would be for them to grant access easements for existing road and utility use. Mr. Reeder said the owners of taxlot 1400 would then convey taxlot 300 (the 20' strip) to Dunes City in conjunction with the recording of the Woahink Ridge Estates Subdivision. Mr. Reeder said there are a couple of issues, one, it looks like this transfer of the property to the developers and wrapping this issue up with this PUD application has the effect of modifying the application for the PUD and as such, the subdivision / PUD needs to be analyzed to the extent that now the 20' strip of property is part of that subdivision / PUD and therefore, the extension of the road should be completed up to the end of taxlot 300 and to his knowledge that has not occurred or there hasn't been a provision made for it. Mr. Reeder said basically what is going to happen is the asphalt for that new road ends at the property line of taxlot 1400 and not taxlot 300 and so they are concerned about what is going to happen with that strip of property once it is transferred to the City. Mr. Reeder apologized for the lateness of his presence and he hopes to come before the City Council in the future with a little bit more of a background of the case but it is the hand he has been dealt so that is what he is playing. Mr. Reeder said he would be happy to entertain any questions or dialogue the City Council would have.

Mayor Hauptman said they understand Mr. Reeder's predicament but actually, all of this has been addressed quite thoroughly. The Mayor said he thinks the best way to get answers to those questions is through Mr. Kloos' office because he would be able to supply Mr. Reeder with

anything he needed.

Councilor Mills expressed her opinion stating that the Council is under the constraints of the settlement agreement as a result of litigation and it was not a part of the provisions of the settlement agreement and therefore, in her opinion, it becomes very difficult to go beyond that and that right there is her reservation. Councilor Mills said the City wants to live up to its terms and they expect the other party to do the same so that all can carry on.

Mayor Hauptman said this has been thoroughly reviewed.

Mr. Reeder left his seat before the Council and returned to the audience.

Bill Kloos ~ 375 W 4th St, Suite 201 Eugene, OR 97401

Mr. Kloos said the Mayor and Council are correct that this issue has been nit picked. Mr. Kloos said he understands that Mr. Reeder represents Mr. Murdock and (emphasis added) Mr. Cocciolo together.

Mr. Reeder said yes he does.

Mr. Kloos said this issue of getting the road paved on the 20' strip in the direction of Mr. Cocciolo's property is Mr. Cocciolo's issue; it has been for four years. Mr. Kloos said the reason his (Mr. Kloos) clients got title to the 20' strip instead of the strip going directly to the City was because the County was not going to give it away for free. Mr. Kloos said the County wanted it used for public utilities, for public access and they offered it for sale. Mr. Kloos said his clients stepped up and said they would buy it and then give it to the City. Mr. Kloos said the deed they got from the County looks exactly like the deed his clients have already given to the City. Mr. Kloos said the original is in the book. Mr. Kloos said this is a simple matter. Mr. Kloos said the one substantive suggestion he hear from Mr. Reeder was that somehow because there is now an understanding from the County that this strip would be deeded to the City in connection with the final platting, somehow that modified the subdivision and PUD approval and the next thing they will hear is that they have to go through a modification process of the subdivision / PUD. Mr. Kloos said who would ever want to go through that again. Mr. Kloos said that substantive theory is a little nutty because the City approved a subdivision, a plat, and a PUD plat on a very specific footprint of ground, it did not include the 20' strip, it came with conditions, the conditions got fulfilled, and they filed final application that relates to that footprint. Mr. Kloos said the request to approve the final plat and the final PUD is limited to exactly what the City initially approved. Mr. Kloos said he thinks Mr. Reeder's client could very well appeal the City's approval and in order to appeal approval, he needs to have raised some theory and that's his theory but it is not a theory that holds any water. Mr. Kloos said anybody can appeal anything, anywhere and neither the City nor he has any control over that. Mr. Kloos said with respect to the merits of this application, the City is in good form of approving this as the staff has recommended.

Mr. Kloos left his seat before the Council and returned to the audience.

Mayor Hauptman asked if there was any further comment from anyone and no one spoke.

Mayor Hauptman closed public comment period at 8:30 p.m.

Mayor Hauptman asked if any of the Councilor have any additional questions.

Councilor Howison asked Councilor Sathe to review Councilor Navetta's concerns, as it would be helpful in his deliberations.

Mayor Hauptman said Lisa Ekelund could also weigh in on any questions.

Councilor Koehler said just as a matter of procedure, could Councilor Navetta elucidate on these points, primarily rather than have them answered in kind.

Councilor Howison asked if they could do one at a time and the Mayor said yes.

Councilor Navetta said under (A) (c) under the conditions, it said to precisely locate and perk all onsite systems and that did not happen.

Mayor Hauptman asked Lisa Ekelund to respond.

Lisa Ekelund said there is a map in the application that indicates all of the perk tests.

Councilor Navetta said some of the plans say that it could be located anywhere. Councilor Navetta said that is not a precise place.

Mayor Hauptman said the sanitarian is saying that the perk could be located anywhere on the lot and then it would be up to whoever builds to decide where they want to place their septic. The Mayor said if it were located in a precise spot, even though they felt that the whole lot perked, you would be painting the ultimate buyer into a corner. The Mayor said if it was a tough perk and they only got one hole that perked then that would be a restriction.

Councilor Navetta said they are talking about a piece of property that has very definite soil constraints and you just can't put one where you want to and in the past when that particular area was perked, it was a 50% failure and so it concerns her.

Mayor Hauptman asked Councilor Navetta if she has anything documenting this 50% failure. The Mayor said he could not find anything prior to these perk tests.

Councilor Navetta said she could not remember what year that was but it was a while back, several years ago.

Mayor Hauptman said Lane County did the perks, which indicate where the locations of the septic systems could be on the individual lots.

Councilor Navetta said so it is buyer beware.

Mayor Hauptman said it is Lane County and they are the ones who determine the perkability of the property.

Lisa Ekelund said she believes that there were some lots that were limited.

Mayor Hauptman and Councilor Navetta agreed with Lisa Ekelund.

Lisa Ekelund said there were some lots that were unlimited. Lisa said the development is a large piece of property and soils change on different lots but there is septic authorization in the application for each individual lot as required.

Councilor Ruede said the Council had discussed this at great length before the settlement negotiations. Councilor Ruede said she does not understand why Councilor Navetta is taking up their time tonight rehashing these things that they have already spoken about at length.

Councilor Koehler said just to fill in Councilor Ruede, there is certain liabilities that take place if the City does approve a property that doesn't perk and then the City has to fulfill some sort of a sewer agreement and he (Councilor Koehler) would not want to hold that liability. Councilor Koehler said he thinks it's incumbent on any Councilor to take the initiative to see what could be wrong and speak up and that's what Councilor Navetta has done and he applauds her efforts. Councilor Koehler said he looks forward to more input regarding the other points that she's making here.

Councilor Navetta said under (B) (2) in the conditions, the streets are paved but where are the curbs and in viewing the storm management maps she sees that there are curbs and when she drives through the subdivision, she does not see any curbs and if they are going with the final plat she would think that they would be there.

Councilor Sathe said where the curbs are, they are taking the water down to the stormwater management area. Councilor Sathe said when the Road Commission went out and looked at this, the one place where there was a curb, it was causing a little bit of erosion so they put riprap on it. Councilor Sathe said the curbs are actually causing more damage to the filtration than it would if it did not have curbs. Councilor Sathe said they have a great water management system where the water goes into check valves and the City could not ask for anything better.

Councilor Koehler said this brings him to a point and perhaps Councilor Sathe could explain, does any water run into Canary Road, is it diverted out to Canary Road?

Councilor Sathe said no, it is going towards the wetland canyon that they were speaking of earlier. Councilor Sathe said the water is going to the natural drainage run off where it has always gone before and it is done with checks and measures. Councilor Sathe said there are oil traps and the water is filtered as well as it can be done. Councilor Sathe said the developers have really done a good job.

Councilor Koehler said just to further, is this for any particular year frame of storm, the 100-year storm or does this calculate?

Mayor Hauptman asked if this is about Canary Road or is it just a general question.

Councilor Koehler said no this is just general, that one area where the wetland is absorbing all of this and then diverted somewhere in a 100-year storm.

Councilor Navetta said it is a 25-year storm.

Councilor Koehler said 25-year storm.

Councilor Navetta said it should be 100 but it is only 25.

Councilor Sathe said even in the worst-case scenario, what they have built there should handle anything that comes by. Councilor Sathe said he feels totally confident in it.

Mayor Hauptman said the engineers not only reviewed the plans and inspected it thoroughly; they have made at least three different visits to the site and basically were content with everything, including the storm drainage.

Councilor Koehler said the reason he brings this up is only because of the liability to someone directly South of their property and if that does end up running off and flooding their area but we're trusting EGR.

Councilor Howison said number 3 relating to the storm drainage plan, is it true that it is the 2006 McAlister plan.

Councilor Navetta said, but the final plat requires a review and she didn't see a review.

Mayor Hauptman said it was reviewed by the engineers and it was approved by the Road Commission.

Councilor Sathe said the Dyer Partnership reviewed it, the Planning Commission reviewed it and the City Recorder reviewed it. Councilor Sathe said he does not think there is any way they can ask the developers to do anything better than what they have done.

Mayor Hauptman clarified that they are operating within the timeframe of earlier codes as to when the preliminary plat was approved, they had the LUBA remand to operate within and that is the basis that the City Engineers went and thoroughly looked at this. The Mayor explained everything that the City Engineers have done and he believes that this has been the most thoroughly reviewed development in the history of Dunes City. The Mayor said that after the settlement agreement, Mr. Ron Mann has been nothing but an honorable gentleman in doing exactly what the City asked him to do. The Mayor said Mr. Mann did not argue, he did not cut corners, he just went and did it, again with the confirmation by the City's Engineers. The Mayor said he does not think they could ask any more of these developers than what the City has.

Councilor Navetta said this is a very fragile piece of land in 1996 and in 1997 the City had the 100-year flood and that did flood and the water ran and ran and that wetland became so huge that it spilled all the way down to the lake and many people were inconvenienced by it and so they do need to be careful about this piece of land, it not only has the constraint of the wetland but the slope on the other side of the property, it's extremely fragile. Councilor Navetta said the next one she has is (B) (7), is Rob Ward an independent engineer, capable of determining slopes. Councilor Navetta said she knows he is not independent, but does he have the capabilities.

Mayor Hauptman said he believes the surveyor does that by doing a topo-map by shooting elevations.

Councilor Navetta said her point is that he is not independent and perhaps someone else should have done it.

Councilor Navetta said another concern she has is (B) (17). Councilor Navetta said the fencing is not finished, they have fence on part of a PUD and PUDs are required to have fences and we have two large areas that are not fenced.

Councilor Howison asked if PUDs have required fencing.

Councilor Navetta said yes they are, she thinks it is 156.139 but that has been five years ago. Councilor Navetta said the fences are to keep people in, to keep people out, why do they put gates on them sometimes, to keep people in, to keep people out.

Councilor Howison questioned if it would be a requirement.

Councilor Navetta said it is a requirement.

Mayor Hauptman said it was never a requirement of this preliminary approval and also the LUBA remand and there was no requirement for fencing. The Mayor said he thinks the fencing that is

there was really a private agreement between the developers and Mr. Cocciolo.

Councilor Navetta said only because it was according to code, you could check with Mr. Riechel, she is sure he remembers.

Mayor Hauptman said this could go on forever; it was not required on preliminary approval. The Mayor said they cannot require the developers now after the fact when it was not required under the preliminary application. The Mayor said these were the instructions they had from the Judge during negotiations. The Mayor said they could only require these gentlemen to honor the preliminary agreement that was approved by the Council, address the LUBA remand and the code that was in force at that time. The Mayor said this is what they did, Lisa Ekelund has reviewed it and the Engineers reviewed it.

Lisa Ekelund read portions of code regarding fencing of parking areas located in a development.

Councilor Mills said under the report item (B) (17) it does say prior to final plat approval, fence construction shall be completed as indicated in supplemental information at page 9. Councilor Mills said she does not see a supplemental page 9 but this would answer the question.

Councilor Navetta said she also knows another property owner also received fencing besides Mr. Cocciolo. Councilor Navetta said she would just like to call to the attention in Chapter 14 on page 30, it mentions Sunset Cove twice under duration and she thinks that should be corrected.

Fred Hilden said unless he is mistaken, the CC&Rs are still in the process of being completed, finalized, and the "i's" dotted and the "t's" crossed. Fred said that perhaps they should propose an exception.

Mr. Kloos said about the CC&R's, he did not draft them, he got them from another attorney who did them for this project as best he could and then he (Mr. Kloos) inherited them and then he made a few changes on them to reflect the settlement agreement and then they submitted them for their prior plat application, staff reviewed them and found some nits. Mr. Kloos said they made those corrections but he has no doubt that they have more nits. Mr. Kloos thanked Councilor Navetta for flagging those issues.

Councilor Navetta said yes, it is just one of those things because that's how we write CC&R's, is from other something or other, no one would write them on their own.

Mr. Kloos said there are fewer more miserable tasks in life than writing CC&R's.

Mayor Hauptman said the City Attorney has been in touch with Mr. Kloos and he has reviewed the CC&R's so he even missed it.

Councilor Navetta said the other concerns she has is that the Canary Road continues to slump and vegetation is peeling off and more and more sand is becoming exposed and the wall paper or the weaving that's on the side of the bank is deteriorating and she is very concerned.

Mayor Hauptman said this is unfortunately an issue for the County. The Mayor said the County put that down and the County had jurisdiction on Canary Road and the road right-of-way. The Mayor said he agrees with what Councilor Navetta is saying but the City has no authority there.

Councilor Sathe said the other thing they need to know about this is, along that edge, it is indicated as common area on the plat so there is not going to be any structures built there. Councilor Sathe said they should not hold this against the landowners because the County did not

build a sufficient road. Councilor Sathe said because of the bank along the road, the developers were smart enough to make this the common area so there would not be any structures falling down into the street.

Councilor Navetta said she believes the City convinced them to do that. Councilor Navetta said this sand that is there on that dune are mica and it's round, it's like marbles stacked up there. Councilor Navetta said it is waiting for an earth quake, it's very fragile soil and she knows it's in Lane County, she knows it's Lane County's problem but somebody has to buy lot number 9 and it's not in a very good place. Councilor Navetta said in driving through the place over the last several years she noticed that the stormwater collection sites have degraded and where there was once a pile of stones there is only a few stones now and she does not know if that's not going to be as effective in containing the water, she is concerned that there's no large vegetation left, all there is, is scotch broom, there's no trees or wax myrtle, or huckleberry or anything, it's just really bad looking stuff.

Councilor Sathe said they checked all of the rock formations and they walked the whole area. Councilor Sathe said they are multi layered so even with the 100-year storm, they would hold up and the rocks would not be wiped out. Councilor Sathe said the bio-swales are excellent; the water will go through the drainage trench and to the oil separator.

Councilor Navetta said of course her biggest concern is lots 1, 12, 13, 17, and 19 only have a 15 foot setback from the street and our code requires 25 feet.

Councilor Sathe said any of the lots that are facing in the round circular part that is inside their development is not part of the Dunes City streets so that does not require a Dunes City street right-of-way, that's publicly owned by them. Councilor Sathe said the only road setback as far as the Dunes City's jurisdiction would be on Greengate Road.

Councilor Navetta said she believes that one of them is on Greengate, most of them are on Chittum but she thinks one of them is on Greengate.

Councilor Sathe said only one of these lots in question is even in our jurisdiction as the Road Commission on having the setback, all of the rest of the lots are along the private road.

Councilor Navetta said she had no idea that was true.

Mayor Hauptman asked if Councilor Koehler had a question.

Councilor Koehler said he does in so far as that the liability, if there is any on building on lot 8 and 9 because it's so close to that iffy area on Canary. Councilor Koehler said he just wonders how the engineers justified any additional weight on lot 8 and 9 because of the slump.

Mayor Hauptman said this is why there is dedicated common area and there cannot be any construction.

Councilor Koehler said but still, it's pretty close to that and like Councilor Navetta said, it has very unusual sand that can promote a slide but has the engineers given approval for all of this additional weight or tamping on 8 and 9?

Mayor Hauptman said the engineers reviewed all of the drawings and went out there and it complies with what is required of these developers.

Councilor Koehler said but they signed off.

Mayor Hauptman said they did sign off and they went out there half a dozen times. The Mayor said three different engineers, two or three different surveyors have been through that property, and they signed off.

Councilor Howison said he thinks it is time to call the question.

Mayor Hauptman said he would now entertain a motion to adopt Resolution Series 2010 #2, a resolution approving the final plat and final planned unit development application for Woahink Ridge Estates (PUD 01-05).

Councilor Sathe made the motion to adopt Resolution Series 2010 #2. Councilor Howison seconded the motion. The motion passed by roll call vote, which is as follows:

Councilor Navetta	nay
Councilor Sathe	aye
Councilor Koehler	aye
Councilor Howison	aye
Councilor Ruede	aye
Councilor Mills	aye

Mayor Hauptman called for a 10-minute recess at 8:55 pm.

Mayor Hauptman reconvened the meeting at 9:12 pm.

· Business License Ordinance (Second Reading)

Mayor Hauptman said they would have the second reading of Ordinance #206, an Ordinance to establish Chapter 120 within the Dunes City Code of Ordinances entitled "Business Licenses" and all matters properly relating thereto.

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

Mayor Hauptman opened the agenda item for public comment at 9:14 p.m.

Paul Floto ~ 83236 Clear Lake Rd. ~ Dunes City

Mr. Floto said the City is calling this a business license but it is only focused towards contractors. Mr. Floto said they are state regulated and if there is an issue, the person can go against their bond. Mr. Floto said the fee will be passed onto the permittee and sometimes there are up to 10 contractors and each one will tack that on in the bid. Mr. Floto said out of town contractors would not bother to bid and citizens will be stuck with one guy who paid the license fee and he does not see any purpose to this. Mr. Floto said he heard a rumor that a councilor had a problem with one contractor, this is the solution, and there is a rumor that Dunes City makes laws just for the sake of making laws. Mr. Floto said he hopes they will not pass this ordinance on the second reading.

April Dumas ~ 83586 Cold Springs Lane ~ Dunes City

Mrs. Dumas said they know Woahink Lake is one of the lakes most in need of protection. Mrs.

Dumas said if they are going to continue to enjoy pure clean water this business license ordinance is the last piece to ensure the protection of the lake. Mrs. Dumas said she commends the City Council for working diligently in allowing responsible development while preserving the clean water and they need a system in place where people can learn the rules. Mrs. Dumas said it takes a community to protect the environment and other towns have this type of license. Mrs. Dumas said this is not a new concept and the City certainly needs the money. Mrs. Dumas said she believes this license does not go far enough, the fees in other towns are higher and the proposed penalties are minimal.

Mary Jo Leach ~ 84284 Alder Drive ~ Dunes City

Mrs. Leach said she supports the license and she believes it does not go far enough and it is not expensive enough. Mrs. Leach said she has been a victim and the Contractors License Board is not the place for recourse as it takes years for retribution. Mrs. Leach said it took her 2 years to finally get through her claim. Mrs. Leach said it took another person she knows 6 years to get the bond so she believes local recourse is a better way. Mrs. Leach said the fee is passed on to the consumer and she will pay it, it is called capitalism.

Scott Ryland ~ 83864 Hwy 101 ~ Florence

Mr. Ryland said he is a local contractor who does work in Dunes City, Florence, and up the coast as far as Lincoln City. Mr. Ryland said he does pay local City Business Licenses in other Cities but he does not know if it is recourse, because anyone who does illegal work will circumvent the business license. Mr. Ryland said if someone does not take the time for a valid CCB license, State License, etc, what makes a person think they are going to check to see if there is a valid City License. Mr. Ryland said he is not opposed to it but he does think for the size of the town, the amount is too high considering the customer to cost ratio. Mr. Ryland said he disagrees as this is directed at contractors only and he questions why they are not charging motels, stores, fish camps, or the guy that does income tax returns out of his home.

Darleen Beckman ~ 82150 Booth Island ~ Dunes City

Mrs. Beckman said they read the ordinance on the internet. Mrs. Beckman handed the Council her written comment.

Under 120.05, the fee should be lower to cover just the expense in the business license program and not used as income.

Under 120.10, in definitions concerning no business license to submit bids unless required by the CCB. The CCB requires a license, insurance, and bonding to submit bids to begin with. Why should someone be forced to get a business license for a job they may not get. Are subcontractors required to get the business license as it becomes expensive for the homeowner?

Under the application, the application is supposed to supply evidence of state registration etc... if we provide it then give us a discount.

Under 120.55, should the fee be included in the ordinance? Is it much harder to adjust the fee, as it needs to be adjusted later on.

Under 120.60, change "suspended" to "inactive" as jobs may not come yearly, or use "non-renewed" but not suspended.

Under 120.75, why should people involved in cutting and pruning trees have to have a business

license unless they are impacting the shoreland.

Mrs. Beckman asked to please make the ordinance clear and simple.

Under 120.80, exceptions, perhaps change to the words "required to be licensed."

Mrs. Beckman asked if each councilor would give an explanation as to why they think this ordinance is necessary. Mrs. Beckman asked the Council to wait to vote until it is in its final form.

Mayor Hauptman closed public the comment period at 9:36 p.m.

The Mayor said he would now entertain a motion to have the second reading of Ordinance #206 by title only (and with any revisions that must be read during the motion). The Mayor said upon the motion being passed, and any revisions having been read during the motion, the chair reads the title of the ordinance for the record.

Councilor Mills said the motion is to read the ordinance but is it to pass it.

Mayor Hauptman said the motion is to read by title only with the changes then the motion is made to pass it.

Councilor Howison made the motion to read Ordinance #206 by title only with the changes that were approved. Councilor Koehler seconded the motion. The motion passed by unanimous vote.

Mayor Hauptman read Ordinance #206 by title only along with the changes that were approved.

Fred Hilden explained additions and deletions made by the City Attorney. Fred said several of the grammatical errors were caught by Councilor Navetta and an associate of hers. Fred said Councilor Navetta requested several changes and some of those were not considered. Fred explained the reasons why her suggestions were not changed.

Councilor Koehler said he tends to agree with all of the changes, in fact everything, but what he would like to address is some of the comments made during the public testimony and he thinks it is quite valid. Councilor Koehler said the fact that they live in a town that requires participation and this is not economic participation, it is civic participation, those people who look out for other people who see that the part of their environment and their City goes to degradation quickly without their response is something that is really admirable and he appreciates anybody who steps up and says something about. Councilor Koehler said it's what makes America and Dunes City what it is but primarily Dunes City because we do not have a continuing revenue stream here. Councilor Koehler said a lot of the ones, especially Florence that has a continuing revenue stream has a lot of support in that regard. Councilor Koehler said what we deal with here is not necessarily the money end of it but the participation end of it so he would appreciate seeing a higher fee for this ordinance and he would like to cap this penalty phase at \$10,000. Councilor Koehler said it's important to set a standard and when you have somebody like we heard earlier about somebody that just goes renegade on the area, it's something that we could make a statement and it's a strong statement for this town in order to stop this. Councilor Koehler said we talked about the need for curbing crime in Dunes City, it isn't the crime from people against property here, it's a crime from people that disturb property that are involved in property and this is a problem. Councilor Koehler said it's not the people that deal with businesses after they've been built; it's the ones that define themselves as businesses that get away with murder here in town. Councilor Koehler said he doesn't tend to agree with a lot of these things, or a lot of the ways people get away with it but licensed contractors do and have done work in the past that have

pretty much debilitated large tracts of area and it's very unfortunate that these are the crimes that we have to deal with and it's not necessarily for just this ordinance but a multitude of our other ordinances that we've tried to put in place in order to get things under control so that the participation in town is born on everybody and now there was a comment made about having only one person being given this oneness of paying the fee for one client in town. Councilor Koehler said in businesses, there are a cost of doing business and it's a standard operating procedure that you would pay a licensing fee for the municipality that you go in and work. Councilor Koehler said it's just standard operating procedure and he thinks that just because we are a small town doesn't eliminate our having to take part in that. Councilor Koehler said the primary thing is that there is a liability to the City that he is seeing this as a liability curbing that we can stop those crimes happening in our town by the use of this ordinance. Councilor Koehler said one of the things he would like to see changed is the \$85 fee go to \$100. Councilor Koehler said this enables us to be a very special town and it is not born on any one person, it's stratified throughout everybody in so far as doing the cost of doing business model. Councilor Koehler said he totally supports this ordinance just because it would enable us to get a handle on what he considers crimes in the City that he has witnessed over the last four years.

Councilor Howison commended Darleen Beckman for her thorough reading of the ordinance. Councilor Howison said is it correct that if you submit a bid, do you have to get your license before you do the work. Councilor Howison said regarding subcontractors perhaps that could be a consideration too. Councilor Howison said under 120.20 we could require they give us the state registration and would it make it easier for the City Recorder.

Councilor Navetta said she thinks the City does need to check and make sure that people are registered and bonded. Councilor Navetta said many landscapers, for instance, are sometimes licensed and other times not if you catch them on a good year or a bad year so she thinks the City does need to check into that.

Fred Hilden agreed with Councilor Navetta and said he would do whatever the Council tells him to do relative to this ordinance. Fred said if it is passed, it is incumbent for staff to check the licenses and validate that information.

Councilor Howison said regarding 120.55, the fee being included in the ordinance, he agrees with this and he thinks they should stay with the \$85 but they could change it at a later date by resolution.

Councilor Howison said regarding 120.60, if someone were not doing a lot of business in Dunes City, if they notify the City within 2 weeks, they would not be in violation if they can come back and reactivate it.

Councilor Howison said regarding 120.75, perhaps they could make it contingent upon only the 50-foot setback.

Councilor Howison the City has had to come up with a lot of time, effort and expense dealing with people who violate the rules. Councilor Howison said we need something in terms of revenue because they will have to keep track of this but education is important as well.

Councilor Sathe said he is worried about item (K) being eliminated from this because this brings all of the businesses that we weren't going to start out with, back into the loop.

Fred Hilden said the attorney points out that the opening of Chapter 120 section 80 including (K) makes it a double negative.

Councilor Sathe said he thinks it is important but in the future as people change on the Council, it could be interpreted differently.

Councilor Howison said he does not see this as a problem.

Councilor Sathe said he would like to create a Committee to be on track with this so they do not lose the interpretation.

Fred Hilden said this ordinance was originally drafted by the Revenue Committee and that may be the logical place to put it.

Councilor Howison said it is the staff that will make sure it runs right.

Mayor Hauptman said they are still kicking this around. The Mayor said they have heard some good suggestions from the audience and the next move is to vote on it and if they do, it is a vote on it the way that it is. The Mayor said he does not think this is the time or place to debate additional changes.

Councilor Howison said they are making small amendments.

Councilor Koehler made the motion that they fill in the blank on the last page, page 10 that says the total amount not to exceed \$10,000. Councilor Sathe seconded the motion. The motion passed by vote of 4 ayes and 2 nays (Councilor Mills and Councilor Ruede)

Councilor Koehler made the motion that they increase the rate to from \$85 to \$100. Councilor Navetta seconded the motion. The motion failed by vote of 2 ayes 4 nays (Councilor Howison, Councilor Mills, Councilor Ruede and Councilor Sathe)

Councilor Howison made the motion to accept Ordinance #206 as amended. Councilor Koehler seconded the motion.

Councilor Mills said she agrees with the need to educate the contractors or the homeowners but she does not think they need a business license to get there. Councilor Mills said she believes it to be redundant, punitive against the businesses, and the wrong time to do it. Councilor Mills said she would love to see a policy in Dunes City, that at the moment somebody comes into the office to get a permit, that person receives a clear concise description of what they can and cannot do.

Councilor Ruede said she cannot support this ordinance and she appreciates tonight's testimony. Councilor Ruede said this is extremely premature at best and she concurs with what Councilor Mills just said. Councilor Ruede said she would not support this ordinance.

Councilor Koehler said he would again send his appreciation to Mary Jo Leach who at the time we were dealing with a renegade contractor who took quite a few people for close to a half a million dollars and continues to do that here in Dunes City, and in Glenada, and in Florence, and in Waldport, and continues to do it up the Coast by having the Contractors License Board be notified and then he moves on, the enforcement of that is about as useless for us as it could be so for that per that issue in that is a signatory of what he does not what to have ever happen again regarding that particular contractor bilking citizens for that amount of money.

Councilor Howison said if they do not know who the people are who violate the code, they cannot take it to the State board.

The motion to accept Ordinance #206 as amended passed by roll call vote, which is as

follows:

Councilor Navetta	aye
Councilor Sathe	aye
Councilor Koehler	aye
Councilor Howison	aye
Councilor Ruede	nay
Councilor Mills	nay

- Atkeson Property: Status of bridge permits and reimbursement for nuisance abatement costs

Councilor Howison recused himself and took a seat in the audience.

Fred Hilden explained the steps he has taken regarding the bridges and he read all of the requirements of the nuisance.

Councilor Sathe made motion that we go after monies that are owed to the City with what staff has added up right now and go through City Attorney to make sure that what we are doing is legal by City Code. Councilor Koehler seconded the motion. The motion passed by unanimous vote.

Mary Jo Leach ~ 84284 Alder Drive ~ Dunes City

Mrs. Leach said regarding the bridges, the time period required by code to submit engineering drawings is long gone and it is time for action. Mrs. Leach said we know they are not code because of the un-graded lumber and everyone needs to follow the same rules. Mrs. Leach said if Dunes City allows the bridges to stand then the City is open to a liability. Mrs. Leach said Councilor Ruede should have recused herself on this issue. Mrs. Leach said everybody brings bias to the table but a personal friendship is an overwhelming bias.

Mayor Hauptman called for a ten-minute recess at 10:30pm.

Mayor Hauptman reconvened the meeting at 10:42 pm.

Mayor Hauptman said at a prior time, Councilor Navetta said we are a "Do nothing Council". The Mayor asked if the Council wants to do something about this.

Councilor Sathe said he does not want to see them pull the bridges out if they can show the City engineering and if the City Engineer say's go ahead.

Councilor Sathe made the motion that on 9/11/10, if they do not have their complete application finished, they take the bridges out, if by 9/11/10 they have the application done and the Building Official and the Engineer approve it then the bridges are allowed.

Councilor Mills said it should be amended to include costs associated with this particular issue.

Councilor Navetta for the sake of discussion she would like to second the motion.

Councilor Sathe amended his motion that as of 9/11/10 the Atkeson's has to have all plans approved or remove the bridges and if the plans are approved by the City Engineer the City can keep recoup any costs of staff involved in processing the application, if it is not done by 9/11/2010, a fine of \$500 per day will apply until the bridges are gone. Councilor Koehler seconded the motion. The motion passed by unanimous vote.

13. New Business

- 2011 Special City Allotment Grant Resolution

Fred Hilden said this is the grant they are attempting to get for the Fishmill Way project.

Councilor Sathe made the motion to pass the 2011 Special City Allotment Grant Resolution so they get a chance of \$25,000 in road funds. Councilor Navetta seconded the motion. The motion passed by unanimous vote.

Councilor Sathe made the motion to create a Committee to work on improving the business license to be run through Councilor Howison's Ordinance Review Committee. Councilor Navetta seconded the motion. The motion passed by vote of 4 ayes and 2 nays (Councilor Howison and Councilor Koehler).

14. Unscheduled Items Not Listed on the Agenda

Councilor Navetta said she just happened to drive down Ocean Boulevard, checking out the re-vegetation that we put in and there is no vegetation in front of the Middlestadt property and a big clump of piled wood has now arrived. Councilor Navetta said she would like all of the Councilors to look at this and Councilor Sathe was very generous and he said if we came to his Road Commission and talked about it that they would do something about it.

15. Adjournment

There being no further business to come before the City Council, Councilor Navetta made the motion to adjourn the meeting and Councilor Koehler seconded. The motion passed by unanimous vote.

The meeting of the Dunes City Council adjourned at 11:01 pm.

The next scheduled meeting of the Dunes City Council is to be held on August 12, 2010 at 7:00 pm.

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

APPROVED BY THE DUNES CITY COUNCIL ON THE 12th DAY OF AUGUST, 2010.

[Signed copy available at City Hall]

Eric Hauptman, Mayor

ATTEST:

[Signed copy available at City Hall]

Fred Hilden, City Recorder

Community Center Report to City Council

July 8, 2010 ~ Prepared by Councilor Susie Navetta

In March the office staff sent a memo to me concerning items that needed attention in and around the City Hall building. Five and a half of these items have been addressed.

Thanks to the assistance of Fred Hilden, Dunes City Hall is now in compliance with SB360. Completed tasks; roof cleaning, gutter cleaning, tree and vegetation trimming, tree removal, grounds clean-up and trimming in the parking lot flower beds. As a result of the maintenance and up coming electrical work, Dunes City Hall will have visibility for the new security system. New or replacement plants will be purchased for the front of the building. The old plants will be relocated on the grounds. We had three bids for this work. The lowest bid was awarded to Leaning Tree at \$1,685.00

The electric bid information has been sent to the Siuslaw News for lighting the new flag, the projection outlet in the ceiling, guest speaker lighting, the information box outside the building, and the new sign on the front of City Hall.

Susie Navetta

Road Chairman's Report to City Council

July 8, 2010 ~ Prepared by Troy Sathe, Road Chairman

The Road Commission met on June 21st at 6:00 pm for a staff appreciation dinner. We welcomed Selena Carter and said good bye to Maria McConnell. Fred Hilden and Lisa Ekelund were also there and thanked for all their good work.

Our meeting officially started at 6:45 pm and we were honored with the presence of Councilor Ruede whose Park and Recreation Commission wants to work on a grant with us for trails and paths. The Road Commission also talked about the Fishmill grant and Commissioner Curran delivered the final application to Salem on the first of this month for this project. We will keep our fingers crossed on this grant.

Commissioner Smith is still looking for a trailer for the Road Commission and had some good leads last month. Commissioner Curran and citizen Ron Tucker are working on the legality of several Dune City streets. This includes finding old records and creating files for each city street. Commissioner Leach addressed 2 driveways that he had questions about and the Road Commission set up a day to inspect them. The Road Commission also inspected three driveways, one on Cloud Nine Road, one on Summerbell Drive and one on Russell Drive. Commissioner Wells, Leach and Owen led the first inspections since I was running late and Commissioner Wells had a full report for me when I made it to the final site.

The 2010 road projects are getting very close to going out for bid and the Road Commission will release work dates as soon as possible.

Thank you, Troy Sathe, Road Commission Chair

**Water Quality Committee
Council Report
7-8-10**

In our June meeting, the Riparian area across from Myrtlewood was discussed with three future goals; A liquid resistant barrier, the right of way and an informational plaque.

Oregon's Blue Green Algae (BGA) DHS - DEQ May meeting in Portland was discussed. I thanked the committee for their combined input in composing the Committee position paper. Another state meeting will occur in July.

I informed the committee of upcoming CERT meetings and the fact that we will be on your own from 3 to 30 days in the event of catastrophe. Committee members were encouraged to participate in these preparation classes so that in any event panic is kept to a minimum and survival is kept to the maximum.

Water testers brought visual data and were asked to provide this understandable data to the website in the near future. Bob Mohler said that the best clarity readings occurred the summer before our first bloom. Water testers will report more data in July.

The Inter Governmental Agreement created for the county to review in the beginning of this year may be better brought forward by the planning department; linking Dunes City planning with Lane Land Management and Lane Planning through an IGA may be the way to go.

Steve told us that the Siuslaw Watershed Council beneficial projects throughout the area.

Previous and future goals were discussed.

Because of its size, Siltcoos would not benefit from 'planting islands' (to absorb phosphorus) yet small areas may be tested by isolating Keichle arm with a curtain, like a BC Canada lake did conditional on grants.

More information is available in the following meeting minutes and on line at dunescity.com

PLANNING DEPARTMENT REPORT

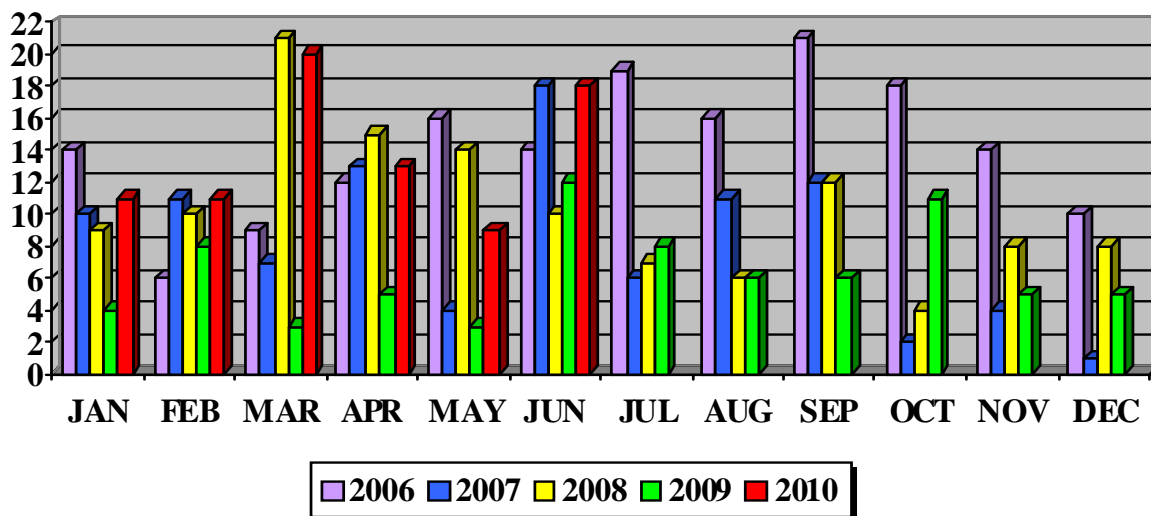
Report Date:
Staff:

July 1, 2010
Lisa Ekelund

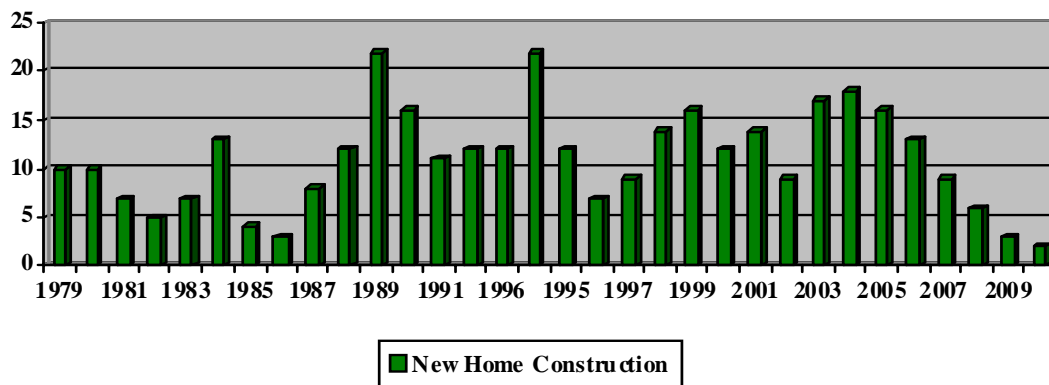
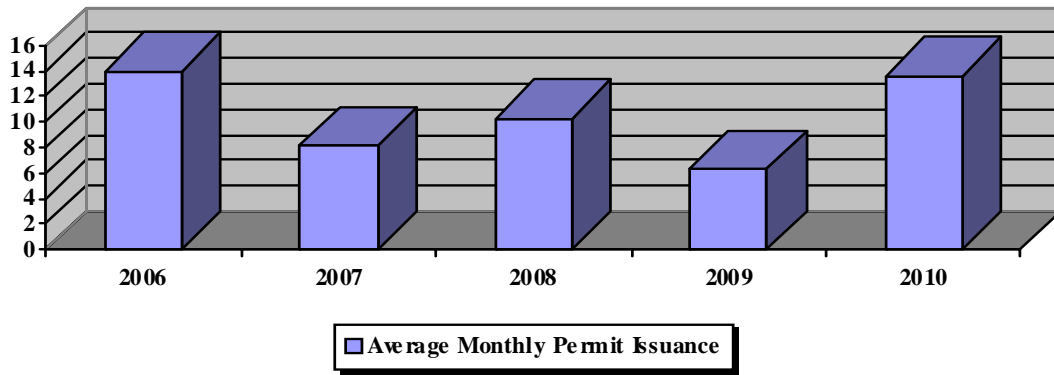
In the Month of June, Dunes City issued 18 permits. These permits include Dunes City's second new residential construction for property located at 5248 Russell Drive. The total permit issuance for the year is 82. The average monthly permit issuance for the year is 13.66, which is a 216% increase compared with 2009.

The last meeting of the Planning Commission was held on June 24, 2010. At this meeting, the Planning Commission considered the final plat application for the Woahink Ridge Estates Planned Unit Development. The Planning Commission unanimously voted to have the application sent to the City Council for final approval. Additionally, Planning Chairman, David Bellemore announced his resignation of the Chairmanship effective July 2010. Commissioner Bellemore will continue as a Planning Commissioner and the Planning Commission will elect a new Chairman at their July 22nd meeting.

The Planning Department has received an application for a variance for property located at 5666 Peninsula Road, to construct a multi-story addition that will encompass additional garage and storage/work/living space, which will encroach into the property line setbacks on the front and side of the property. As required by our current code, a pre-application conference has been scheduled for July 7, 2010.



Total Monthly Permit Issuance



Emergency Services Report to City Council

July 8, 2010 ~ Prepared by Don Hayes

I have had my CPU go asunder and taking much information with it. So there will be omissions. I failed to report in May, and this report will catch up on that information.

We have attended all the WLEOG and EOC meetings in April and we have been involved with two radio tests. We have found holes in the net as far as the line of site for channel 22, tower etc. At this time we are working to get a second EOC base station 2 the Clear Lake Fire Station. This will allow for communication for all the Dunes City residents to report and gather information in an emergency. As City Hall is in an area of declination; the Fire Station is approximately 250' and City Hall is at 17'. St. Mary's is actually in the inundation zone for a tsunami.

I have meet with the Communication and Education Committee about scheduling a class on "Are You Ready" and follow on studies, about Shelter in Place, etc. Just after the WLEOG meeting ended on Monday the 28th of June, the plan was discussed and decided that Dune City would have its first course with St Mary's on the 31st of August, and that we would post that on the web. There will be

follow up classes in Dunes City.

I have been accused of bias for/toward Dunes City, regarding the Radio net and classes by my fellow WLEOG members and my response is I represent Dunes City! and yes, I am biased. That said, I am of the opinion that Dunes City has a unique composition of persons and that must be part of the equation when planning for their emergency operations in a time of disaster. I want to get the most we can for the time, effort and money we put forth. There are approx 5000 souls south of the bridge at Glenada. St Mary's can be along way off and unreachable for people south of Canary Road. I am looking to the Fire station on Clear Lake Road, near Hilltop as a Dunes City relief point. There has to be an understanding that some Shelter in Place cannot be done, and at a minimum, sleeping and washing up including sanitation needs to be supplied. We could have a problem with meds that need to be chilled and I cannot see traipsing off to St. Mary's to accommodate this. In any case, this is part of the on-going discussion that goes on at WLEOG. I thank the staff and members of the Council for their support. Dunes City was well represented with Councilor Richard Koehler, Fred Hilden and I in attendance at last Monday's meeting.

City Recorder Report to City Council

July 8, 2010 ~ Prepared by Fred Hilden

June was another very busy month in the City Recorder's office. The final plat application for Woahink Ridge Estates was reviewed and processed and I participated in the Road Commission's evaluation of the site to ensure compliance with all requirements. Public notices for the vacation of the Samuel Haig Jameson Gateway Road were prepared and submitted to The Siuslaw News and posted on the property, as well as City Hall and the post office.

As you know, Maria McConnell's resignation was received and as a result, we developed a plan to consolidate the Road Secretary position with the Administrative Assistant position. Interviews were conducted and with the help of Lisa Ekelund, Councilor Sathe and Mayor Hauptman, Selena Carter was selected to fill the position. Her training is well under way and she is coming up to speed very quickly with both her road department and general responsibilities.

The budget hearing was conducted and the Dunes City Budget for 2010-2011 was adopted and prepared to be sent to the Oregon Department of Revenue. The Business License Ordinance was updated and prepared for the City Attorney's review. A letter was prepared and mailed to Steve Turner regarding the incomplete bridge permit application for the Atkeson property. I also participated in a discussion with Councilor Jamie Mills and Dr. Richard Anderson regarding the Woahink Lake output control structure, covered under a separate report.

Requests for Proposals (RFPs) were prepared and submitted to bidders for tree removal, roof/gutter cleaning and general landscape maintenance. Leaning Tree Service was selected as the winning bid and the work was completed over a seven day period. An RFP was also prepared and sent out for bid for the electrical work at City Hall. This work should be completed in July.

Finally, Conservation Committee postcards were prepared with no staff time and stamped and mailed by a volunteer. Hats off to the City's volunteers!

July will be focused on sending out water rights admin fee invoices, preparing for the November

election for Mayor and Councilor positions and the upcoming audit.

Respectfully submitted, Fred Hilden City Recorder