



**CITY COUNCIL MEETING MINUTES ~ APPROVED  
NOVEMBER 10, 2011 AT 7:00 PM**

City Hall ~ 82877 Spruce St., Westlake, OR

These proceedings of the Dunes City Council were recorded on tape and are on file at Dunes City Hall. Upon approval by the City Council, these minutes will be available online at [www.DunesCity.com](http://www.DunesCity.com)

**1. CALL TO ORDER**

Mayor Rebecca Ruede called the meeting of the Dunes City Council to order at 7:00 pm.

**2. ROLL CALL**

Roll Call was taken by City Recorder Fred Hilden.

**Present:** Mayor Rebecca Ruede, Council President Jamie Mills, Councilor Duke Wells, Councilor Troy Sathe, Councilor Richard Koehler, Councilor Dick Anderson and Councilor Ed Scarberry.

**Also Present:** City Recorder Fred Hilden and several citizens.

**3. PLEDGE OF ALLEGIANCE**

All who were present stood for the Pledge of Allegiance.

**4. APPROVAL OF THE AGENDA**

Mayor Rebecca Ruede requested a motion to suspend Committee Reports to allow full merit and time for the hearings before the Council tonight. **Councilor Wells made a motion to suspend the Committee Reports for this month (amending the agenda). Councilor Sathe seconded the motion.** Councilor Mills asked whether the Council would be able to ask questions about these reports next month. The Mayor responded "absolutely." **The motion passed by unanimous vote.**

**5. CONSENT AGENDA**

- A. City Council Meeting Minutes from October 13, 2011
- B. Bills of the Session through November 3, 2011 (Amended/Revised)
- C. Receipts of the Session though November 3, 2011

**Councilor Sathe made a motion to approve the Consent Agenda as presented. Councilor Scarberry seconded the motion. The motion passed by unanimous vote.**

## 6. ANNOUNCEMENTS / CORRESPONDENCE

- A. Mayor Ruede announced that the artist of the month is photographer April McCalmont.
- B. November birthday wishes to Council President Jamie Mills on November 23rd.
- C. Mayor Ruede also announced that there will be a Goal Setting Session on January 25, 2012 from 9:00 – 4:00 pm in the Council Chambers. The meeting is open to the public. She also stated that if citizens would like input please contact one of your City Councilors before the meeting because there will be no citizen input during the meeting.

## 7. CITIZEN INPUT

Mayor Ruede explained that we allow each citizen three minutes and this is for general citizen input not regarding the septic ordinance.

### Don Forum, Dunes City Resident:

“If we are discussing the septic system now I have a little problem with why there needs to be a change from the 5 year inspection to whatever. I happen to be a full time resident here and I know there are a number of people that just live here just a few months out of the summer but that, if you are trying to change the inspection time to way past five years, it is going to do nothing but create problems because those changes will create abuses and if you pollute the lake everybody is going to be in trouble. That’s what happens when things like the septic system gets abused. I see no reason to change from the 5-year inspection. It is not that expensive.”

### Paul Floto, Dunes City Resident:

“I am a Dunes City resident and a taxpayer. I was very upset last month when the Revenue Committee talked about a franchise fee as if that was a way for Dunes City to get extra money because franchise fees are paid by the citizens and business license fees are paid by the citizens and almost every fee you enact is paid by the citizens. It is just a tax. As I see it, there is two kinds of revenue one is a tax which comes from us and the second is revenue from an outside source, maybe a festival or advertising. I would like to make it clear that I for one, don’t want to pay anymore taxes; don’t want to pay anymore fees; don’t want to pay whatever you want to call it. And I think rather than have a stand alone Revenue Committee that looks for ways to generate money we deal with the fact that nobody wants to promote tourism. We put a budget item for income for the Festival of the Lakes but we didn’t have it and that revenue be merged into Parks and Recreation we call it Parks Recreation and Tourism. And the people who want to promote outside activities and raise money for outside Dunes City can concentrate on that and the people in Parks and Recreation that don’t want to do anything with tourism can do what they want to do. So everybody will be happy and we won’t have a Committee spinning its’ wheels figuring out ways to get more money from its’ citizens. Thank you.”

### Susie Navetta, Dunes City Resident:

“I want to talk about the noticing of the meetings. I noticed that the Ordinance Review meeting was not on the calendar and I was wondering why that was. Did you have a meeting?”

Council President Jamie Mills stated that she did not give the information to Fred in time. Susie continued, "We can't have a meeting if you don't have a notice." Jamie stated that this is why no action was taken and the minutes will be re-done at the next meeting. Ms. Navetta continued, "Thank you." City Recorder Fred Hilden stated that there was also no notice for the Parks and Recreation meeting. Ms. Navetta continued, "There was no meeting this month it is next month." Fred continued and said it was for October. Councilor Koehler stated that Ms. Navetta had a good point because the notice on meetings is crucial and he was wondering if she had any ideas for Dunes City on how we should go about Public Notices. Ms. Navetta continued, "I know the Oregon Department of Justice put out a paper out on Public Meetings Laws and it says that just noticing on a bulletin board is not enough that you have to have news releases and mailing lists to meet the notice requirements and we are very lax in that and we don't do it. You know it is great to put it on the website, not everybody has a computer and not everybody is computer literate. Not everybody reads the newspaper and of course mailing lists are expensive and if we have to get notices out we just have to get them out that's all."

David Bellemore, Dunes City Resident:

"These remarks are impromptu because I just learned a little while ago, like a couple of hours, that there was a meeting. What I was told was advertised as a Dunes City meeting at the Florence Public Library between three Planning Commission members and two Councilors. I do not know if the meeting was noticed or not but if there's three Planning Commissioners there, that makes it a Planning Commission Session. So, there should be minutes and all the rest of it. I don't know if it was noticed, I don't know why they had the meeting off of City property. Why would the Dunes City Planning Commission be meeting in the Florence area? The whole thing just bothers me especially since I was just sitting back there and heard that there were two Committee Meetings that were not properly noticed. Which to me is just a minor thing in the process of running the City which is a little under staffed right now. Fred is probably busier than a one armed paper hanger; that kind of thing might be easy to overlook. But having Planning Commission members holding what amounts to an illegal meeting is not. That is extremely serious."

Mayor Ruede interrupted stating, "Sir, I believe you are out of order because there was no Planning Commission Meeting." Mr. Bellemore went on to state, "I am just saying, I was told there was a meeting between three Planning Commission members, that's a quorum, that makes it a Planning Commission Session." Mayor Ruede interrupted stating, "That is not a quorum for the Planning Commission. So, please get your facts straight before coming before this Council and make accusations." Mr. Bellemore stated, "I am not making accusations, I am bringing up a concern. As I said, these remarks are impromptu, I will check the facts." Mayor Ruede Stated, "Alright, thank you very much." David Bellmore stated, "OK."

Mary Jo Leach, Dunes City Resident:

"I didn't bring any written remarks. I am aware of the Library Club meeting and have been aware of them for over a year and now it has been verified by someone that they are actually taking place. It is so disappointing and so devastating to hear that this is what's done. It's

completely inappropriate. These are PACs. These are lobbyists. There are certain citizens who are given ear that is not given to anyone else. I have watched the tapes of these meetings and there are so many times when the next obvious question that your considering is never asked, because everybody already knows the answer. But if you were sitting in the audience and didn't know the answer, you would know that it has already been discussed. These things are disturbing, real disturbing. And I don't know who all has attended these meetings with the exception of the Councilors with this last one and the three before but it's inappropriate; it's wrong it negates what we are doing here. It's just a corruption and it's inappropriate. It's completely out of order if you will. Thank you."

Mayor Ruede stated, "Is there any further citizen input this evening? Sir I believe you have had citizen input." Don Forum stated, "Can I have another minute?" Mayor Ruede stated, "No, we are pressed for time and I will not allow it, thank you. Moving on."

## **8. REPORTS – Verbal Reports Suspended**

## **9. UNFINISHED / OLD BUSINESS**

### A. Code Enforcement Ordinance

City Recorder Fred Hilden provided background on the Code Enforcement Ordinance that was brought forward by the Ordinance Review Committee several months ago for the first time. He explained that this most recent revision removed the "refundable filing fee" as it had been a point of contention. It is presented on the agenda tonight for discussion. City Recorder Fred Hilden commented that it appeared there are still some minor changes that would be helpful in making the Ordinance more understandable regarding notifying the person named on the complaint. Council President Mills explained that the "Notice of Violation" was meant to be an action taken after the City had investigated the complaint and determined that there was a violation.

Councilor Koehler stated that costs of the Code Enforcement Officer should be reviewed and presented in the packets before the meeting and whether or not the City can afford to have a Code Enforcement Officer as well as the Judge and suggests the possibility of the City Recorder taking on that position.

Councilor Wells stated that he doesn't think the City Recorder should be involved with code enforcement and knows there are qualified people in Dunes City that would be willing to take on that job. He added that this position could be an appointed Dunes City Officer by resolution or be put on the ballot to be an elected official.

Council President Jamie Mills pointed out that this Code Enforcement Ordinance only deals with abatement and that there is nothing about penalties or fines and nothing about a Judge. This is strictly about abatement, the process and appeals of decisions.

Councilor Sathe stated he would like to have a \$75 filing fee for complaints, as it costs the City a minimum of that to process the complaint and if the complaint is totally valid then

they get their money back. This fee will help curb the complaints that are not valid. He further suggested that in the next election that the City Charter be amended to get rid of the Municipal Judge.

Council President Mills explained that the filing fee was in the first version that was brought before the Council and at that time, it seemed that the deposit (filing fee) was not supported. Councilor Scarberry asked whether the deposit was put in place because of unfounded complaints. Councilor Wells replied that is why he made the motion to originally include it.

Mayor Ruede commented that we can't allow citizens to use the complaint process to busy our staff and make frivolous complaints. Councilor Koehler expressed his concern about a filing fee and stated that he has never seen an assessment of complaints that we have had even though he has requested this information early on in this process.

Councilor Wells expressed his opinion that if the complaint is valid, the complainant gets all the deposit back. Councilor Anderson stated that even if we don't have a history of frivolous complaints, having a filing fee will help prevent it in the future.

Mayor Ruede hearing no objections remanded the Code Enforcement Ordinance back to the Ordinance Review Committee for further revision.

## 10. PUBLIC HEARINGS

### A. Ordinance #213 Second Reading and Possible Adoption

An Ordinance Adopting An Amended Dunes City Fee Schedule (Title 15: Land Usage)

Mayor Ruede read Ordinance #213 by title only.

Mayor Ruede opened the Public Hearing at 7:30 pm and asked for comments from the audience.

After a question was raised from the audience inquiring about what this Ordinance was, Council President Mills explained the background of how this Ordinance came about. After a court decision that rendered City fees invalid because certain "new" fees had been adopted by resolution instead of an ordinance, the Ordinance Review Committee had been charged with correcting the problem and this Ordinance is the result.

Mayor Ruede explained that this was the second reading of the Ordinance and that it was an action item for possible adoption and asked if anyone had any comments or questions.

**Council President Mills made a motion to amend Exhibit A (Ordinance #213) Fees and Deposit Schedule, Item "No Brushing Initial" from \$50 to \$35 and "No Brushing Renewal" from \$25 to \$4, explaining that these are the current charges and since only a few residents are involved, it will have minimal impact. Councilor Koehler seconded the motion. Councilor Sathe commented that the Road Commission is considering doing away with the "no brushing" process all together. The motion passed by unanimous vote.**

Mary Jo Leach, Dunes City Resident:

“I would like to make a comment about the legitimate complaint I made on a neighbor to the East dumping septic on my property and Site Review was given a list by the County, by George Ehlers, of four things to look for. The first one was for pipes that were not connected to the system. The pipes were not connected to the system. Nevertheless my complaint was invalidated. It should have been turned over the County at that time. So, more or less I would have been making a frivolous complaint. So, I have a problem with that and what’s being discussed here; what’s frivolous and what’s not. I am afraid that there just isn’t, there’s friendships and everything that comes into play here and things don’t happen the way they should. The County should have been called back in. The pipes were reconnected when Chuck’s went out there several months later. That’s when the pipes were reconnected to the system. But for that time they were not and George Ehlers should have come back out to look at it. So, theoretically my complaint was frivolous and my complaint was not frivolous. So, you have to consider that when you’re, whose going to decide if it is frivolous or not. Thank you.”

Mayor Ruede closed the Public Hearing for this Agenda item at 7:40 pm and asked for any further Councilor discussion.

**Councilor Sathe made a motion to approve Ordinance #213 with amended fee schedule. Councilor Wells seconded the motion. The motion passed by unanimous vote.**

B. Ordinance Nos. 210A and 211A, Septic Maintenance

Two proposals to amend the Dunes City Code of Ordinances are being considered. Both proposals repeal Ordinance Number 203 entitled “Septic System Maintenance” from Title 15 of the Dunes City Code of Ordinances and replace it with an alternative septic system maintenance program: Option #1) Ordinance Number 210A repeals Ordinance Number 203 and replaces it with a new regulation to ensure proper septic system maintenance by adding a new Chapter 142 entitled “Septic System Maintenance” in the Title 14 of the Dunes City Code of Ordinances; and Option #2) Ordinance Number 211A repeals Ordinance Number 203 and establishes an educational program to ensure proper septic system maintenance.

Mayor Ruede stated, “This evening we have a public hearing on Ordinances #210A and #211A. The Dunes City Council will be making a decision on this matter. These proceedings will be recorded. This hearing will be held in accordance with the land use procedures required by the City and the State of Oregon.

Prior to the hearing tonight, staff will identify the applicable substantive criteria which have also been listed in the staff report. These are the criteria we must use in making a decision. All testimony and evidence must be directed toward these criteria or other criteria which you believe applies to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the City and parties involved an opportunity to respond to the issue, would preclude an appeal based on that issue.

Any party interested in a land use matter may challenge the qualification of any Councilor to

participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a Councilor bias, prejudgment, conflict of interest, or other facts from which the party has concluded that the Councilor will not make a decision in an impartial manner.

Does any Councilor wish to declare a conflict of interest or bias? [No response] Does any member of the public wish to challenge a Councilor's impartiality? [No response]

I will now open the public hearing for Ordinance #210A and #211A at 7:42 pm.

Could we please have the staff report?"

Melissa Anderson stated, "This is the public hearing on the two proposed Ordinances and these are Ordinances that would repeal the existing Ordinance No. 203 Septic System Maintenance. And the proposed Ordinance 210A would repeal that and would replace it with alternative septic system maintenance requirements but would replace it outside of the land use code and into a new Chapter 142 in Title 14 of the Dunes City Code. Ordinance 211A would repeal Ordinance 203 and provide for an educational program for the citizens to ensure proper septic system maintenance. The notice was sent out to the Department of Land Conservation and Development (DLCD) as is required for a code amendment in a land use code. So, they were notified as required to do as well as all of the citizens in Dunes City were, received direct mailing of the proposed Ordinance amendments before the Planning Commission hearing. Notice was published in the newspaper and the referrals were sent to DLCD, DEQ, Lane County Sanitation as well as the Building Department, LLC for their comments. We received two agency referrals back, comments back stating they had no comment. Citizens' comments were included in the Staff Report before the Planning Commission Hearing and those were included in their recommendation and then prior to this Council Public Hearing any new comments that were received were forwarded to the Council prior to this hearing and I would like to, just for the record, acknowledge these submittals were received. One was from ORCA, one Dan and Sue Scarberry, Liz Purtell, another comment from a Gail Nichols, an editorial newspaper comment was copied and included in the record, as well as one comment from Peter Howison. And the applicable criteria for the Council's decision tonight has a combination of our Dunes City Code, Comprehensive Plan, as well as some Oregon State Laws regarding noticing. The Dunes City Code applicable criteria is found in Title 15 Chapter 155 Zoning and Development and in subsection 155.4.1.7 Type IV Procedure for Legislative amendments. So, those are the Code criteria for this amendment in the Dunes City Code as well as our Dunes City Comprehensive Plan the chapters of the Citizen Involvement element, Land Use element as well as the Air, Land and Water Quality elements. Oregon Revised Statutes that apply are ORS 197.610 and ORS 227.186 for noticing of procedural requirements and so those are the criteria for decision making on this item. Now on October 27<sup>th</sup> of just last month the Planning Commission held a Public Hearing on this matter and their recommendation was included in the Council's packet and the Planning Commission recommends that the Council adopt both Ordinance 210A and 211A and the Commission finds that these proposals meet all the applicable criteria of the Dunes City Code, Comprehensive Plan and Oregon Revised Statutes. After the Public Hearing the Council has some options before them and I would just like to review those with you before we begin the Public Hearing. One, after closing or conducting a Public Hearing you could one close the Hear-

ing and adopt Ordinance 210A and/or 211A as presented and then direct Staff to update the Findings and prepare a final Ordinance for the Mayor to sign. You could also, close the Public Hearing and adopt Ordinance 210A and/or 211A with amendments specified by the Council tonight and then direct Staff to update the Findings and prepare the final Ordinance for signature. Also, you could oppose adoption of both Ordinances and direct Staff to update the Findings and just prepare a final decision for the Mayor to sign. You could also postpone making a decision after closing the Public Hearing until the next regularly scheduled City Council meeting but close the Hearing tonight. You could also, leave the Public Hearing open postponing making a decision until the next meeting and you could also, close the Hearing but leave the written record open for seven days and postpone your decision until your next meeting. So, essentially you make a decision tonight or you could postpone this in a variety of ways so those, and these options were handed out to the Council previously. So, I think I have covered the basic components, so if you have any questions of me before you open the Public Hearing I would be happy in trying to answer them.”

Mayor Ruede stated, “Councilors do you have any questions of Melissa?”

Councilor Koehler stated, “I was wondering if you took into account when you wrote your Findings regarding certain DEQ laws that this area the Coastal area has specific protections involved in as its water quality as well as its lakes as designated by the Coastal Zone Management and the Coastal Lake nutrient processes from the EPA and the DEQ. Whereas, I saw a lot of your findings that you were relating basically to general DEQ policy rather than one specific for these specific coastal lakes.”

The City recorder asked, “Can you be specific or clear on what the items you were referring to?”

Melissa stated, “I was going to get around to that but that would be better if.”

Councilor Koehler responded stating, “It would be if I could only find it. The one would be Policy E3 waste discharges from future facilities, you didn’t take into account TMDL levels included in some of the DEQ’s findings regarding Coastal Lakes, which is very specific. In fact, before the Septic Maintenance was enacted we had high ‘P’ levels in Woahink and after the Septic Maintenance had its course we lost a lot of that high ‘P’ level. That’s phosphorous. The other one is also E4 included in that and, but that’s as far I can go with that. I was just wondering as a general, had you looked into that criteria?”

Melissa Anderson responded stating, “My, I would say in general, no, the criteria in my understanding as we need to meet the Code but which is more procedural and the Comprehensive Plan are more broad Policy statements, as you had mentioned Policy E3 and E4, and then referred to in terms of septic requirements that DEQ establishes all of those requirements and has authorized Lane County to administer those requirements and that there, in terms of those septic requirements there are no requirements for the City to have, you know, maintenance requirements and so that essentially we just need to meet our Comprehensive Plan Policies.”



Councilor Koehler stated, “I believe the other Policy would be B8 regarding the proposals for consistency and, or the proposals are consistent with this Policy as you say because no correlation has been established between septic system effluent and the water quality in Siltcoos and Woahink. I think if you had reviewed a lot of the studies that the Water Quality Committee had done in the last four years, actually the last 10 years you’d see that there was a definite relationship between the quality of topography, the sandy soil in this area and many of the places that are not buildable and how that affects the fast draw of effluent into the substrate. So, that I’d take as a well, as a false statement that there is no correlation. But you know, I was just wondering how long, have you studied Dunes City as a particular area in your, before getting involved with running this, you know, working here? I am just wondering where, how do you make some of these statements without having related with some of the things that have gone on here.”

Melissa Anderson responded stating, “Let’s put it this way Council member, the decision that is made tonight or in the future if you choose to postpone a decision, that these, the Findings for your decision, the basis of your decision, is essentially this body’s Findings and so, this is, I am not advocating one way or the other and so if you find that the Findings in terms of addressing the criteria need to be modified which may affect your decision that now is the time, this is the appropriate time to put that forward and to discuss that. And so, essentially the decision that’s made by Council is ultimately is based on what the Council finds, the Council’s Findings and so, in that sense this is not my proposal or I am not advocating one way or another and so it would be your responsibility then to identify things that maybe should be, you know, discussed and be part of the Council’s decision.”

Councilor Sathe stated, “I think we’re getting off the track here on this and if we are going to say anything about an employee that we should do that in an Executive Session not here on the dais.”

Mayor Ruede stated, “Thank you Councilor, is there any other questions of our Staff Report?”

City Recorder Fred Hilden stated, “I have a comment if there are no other comments from the Council. I would just like to summarize what Melissa was trying to say and that is basically if there is specific evidence that anyone has to refute any of the Findings of Fact now is the time to bring that forward, but it needs to be specific evidence. Time and time again, we have heard and heard and heard but there was no specific evidence that has been brought forward that the staff could use to make any changes to these Findings.”

Mayor Ruede stated, “Do the Councilors understand the comments?” Response, “Yes.” Mayor Ruede responded, “OK. Any further questions, now is your last chance. Councilor Koehler do you have a question?”

Councilor Koehler stated, “Sure. When you had mentioned in the page 5 of your report that there was no, that citizens were advised of their involvement but that is, what I don’t see though is what’s implicit in the Comp Plan which is the need for a CCI, Community Involvement. Do you interpret the CCI as being just notice the people in order to be involved in

the process or is it a specific meeting that's called for similar to what's in the Comp Plan as a CCI?

Melissa Anderson stated, "A specific meeting?"

Councilor Koehler stated, "Yeah, in the context of citizens involvement it has been a tradition here as well as part of the Comp Plan about having CCI, which is Citizens Involvement Committees. I see no relation to CCI and your statement on page, at the top of page 5."

Mayor Ruede interrupted stating, "Councilor what is your direct question?"

Councilor Koehler stated, "The direct question is, is there an understanding that CCIs are important in this Finding of Fact."

Melissa Anderson stated, "I am not sure that that is part of this criteria of whether a value judgement of whether a CCI is important or not. I think, Citizens Involvement Program is required by the State Land Use Law and there's this criteria here in the Comprehensive Plan addressing citizen involvement and it requires widespread, provide widespread citizen involvement, effective two-way communication for citizens. So notification was sent out of, very big investment in terms of having to do direct mailing, which is very expensive to all property owners, the legal notice prior to the Planning Commission and City Council in the Siuslaw Public News, posting on the website, as well as there was a sub-committee working on this. Planning Commission Public Hearing where citizens can provide written comment as well as verbal comments, opportunities for citizens to be involved through that, the Public Hearing process, any technical information was available for citizens to review so in that sense that was the criteria, it was, the criteria was not a value judgement of whether the CCI was important or not."

Mayor Ruede stated, "Does that answer your question, sir?"

Councilor Koehler stated, "No, it's just that there was no CCIs involved were there. I'm just saying in this report you say that the citizens had enough input and there is no CCI that I see as being presented."

Melissa Anderson interrupted stating, "You mean that this should have gone through a Citizens Involvement, the Citizen Involvement Committee?"

Councilor Koehler stated, "I see it as such. Yes."

Melissa Anderson stated, "I see."

Councilor Koehler stated, "Maybe I am wrong."

Melissa Anderson stated, "I did not interpret that. I did not interpret that as being a requirement of this Policy, to meet this Policy."

City Recorder Fred Hilden stated, "That was not done for either Ordinance 173 or 203."

Melissa Anderson stated, "That would actually be pretty unusual with any legislative amendment to have go through a Citizens Involvement Committee. Typically a Citizens Involvement Committee establishes some type of program or policies on how to involve the citizens but that they would not be a reviewing body for every amendment."

Mayor Ruede interrupted stating, "Thank you. Thank you. Can we move along Councilor?"

Councilor Koehler stated, "We could."

Mayor Ruede opened the floor for public comment.

Rand Dawson, 82820 Siltcoos Station Rd.:

"So I live downstream from you folks and that is my particular interest in this matter and I have had an interest in clean water for a long time. And I have here a home sewage treatment workshop book from an extensive three-day class that I have engaged in for some period of time and I have provided you some information from that and my suggestions here are probably a day late and a dollar short. They are meant to improve your particular Ordinances whatever Ordinances you do. Whether or not you retain the old one or whether or not you implement new ones, I would support maintaining some type of Ordinance structure. I think it is a privilege to speak to a City where you have the only Ordinance structure that deals with mandatory inspection and pumping is exceedingly far sighted and to think of the long term consequences of that. The first thing I mentioned is a result of a conversation I had with the board member of the Oregon Onsite Waste Water Association today who indicated to me, I have not verified this myself, that DEQ potentially had a mandatory septic system coast area regulations that they were considering and perhaps they just finished the report and I am uninformed about this. They have a phase-in period for these particular regulations. I don't know if they have gone to the regulatory stage or the proposed regulatory stage yet but they would involve possibly, as it was explained to me, mandatory maintenance and inspections. The inspections may for example be on a three-year basis. And I mentioned this because you obviously want to dove tail your Ordinance with whatever these particular future or potential regulations may be. The contact individual there would be a Randy Trox at Eugene's DEQ and his contact number, I think, would be 687-7338. The next thing I'd mention would be in response to general residents' concerns about the costs of this type of an Ordinance and I would suggest a review of City authority with regard to treating, inspections and pumping as a potential utility akin to or similar to a garbage pick-up. And I think perhaps you would have authority to set up a mechanism to control fees and charges accordingly. And I think that possibly would reduce resident concern and increase resident approval or sense of benefit from the particular ordinance. The final thing I would mention is the focus in reviewing your old or your existing Ordinance and I assume the new ones are comparable is your existing Ordinances are primarily focused in terms of the maintenance issue their focused on the tank and not the leach field. And my experience in the past and going through some of these workshops and looking at some of these issues in the item that I provided to you suggests that a significant important part of the function of the septic system which is often not given proper appreciation is how the leach field functions. So, the particu-

lar page that I have given you talks about the formation of what's called the biomat. So you have the water that goes out into the leach field and it forms a, which referred to as the biomat, forms along the trench bottom and is liquid and, and then the liquid begins to pond in the trench under this biomat that forms, it's like a fungus algae and it is a base underneath your distribution system and this living organism which is ½" to 1" thick retards the water that comes through your distribution system. And it's the aerobic and anaerobic processes in this living biomat that destroys the toxins in the particular leach field and if that biomat does not remain viable and healthy then all the health benefits from your leach field simply cease to exist. And there are some suggestions for improving your biomat inspection which would be pipes at the end of the leach field and that has been suggested to me by board members of the Oregon Waste Water Association. So, you would have to change your maintenance standards but those are very cheap and very easy and in Alaska where I lived for a long period time, we mandate those at the end of each leach field and that was certainly the suggestion I received today. I appreciate your courtesy and I am sorry I was late on some of these suggestions."

Susie Navetta, PO Box 2388, Florence:

"I would like to talk about the staff report. On page one, I don't know if you want to follow along or not, near the bottom option #1) Ordinance Number 210A repeals Ordinance Number 203 and replaces it with new regulations to ensure proper system maintenance, I think it takes away proper system maintenance by removing the pumping for inspection. Option #2) Ordinance Number 211A, says that it establishes an educational program. It has no direction; no directives; nobody knows what happens. I do not think that is adequate. Next page Public Notice at the very top says that notices were mailed to all property owners, well, where were the CCI meetings? I can remember coming here for years and we went to CCI meetings and we thought we were going to die from CCI meetings. It's an important part and that is part of the two way exchange. You can't have communication without talking and listening to answers. Further down on the page on October 3, it says referrals were sent to the Dunes City Building Official, Lane County Sanitation. Do we solicit comments from outsiders. I don't believe we have ever done that and I don't think it is their job. Further down it talks about Citizen Involvement, Goal One again was denied. On page three it says, I like to know, what we think an organized neighborhood group is. The Woahink Lake Association wasn't notified, I think we are a recognized neighborhood group and should have been notified. On page four the Citizen Involvement A1 again the citizens have to have the opportunity to be involved in all phases of the planning process and they were not. Not to the extent that they should have been. And number two says communication; to assure effective two-way communication. Citizen influence is important and I think according to number three we should be doing that. There were no CCI meetings. In the past it was just so important and it was done with every land use ordinance we wrote. Policy B8 at the bottom of the page it says we will maintain high water quality because the proposals in this are consistent with this policy because no correlation that has been established between septic system effluent and the water quality of Siltcoos Lakes. Well there has been and if you spare me one half a second more there is a statement in here that I find very much at fault, it says on page 7, Dunes City found that the existing requirements for mandatory septic system pumping does not benefit all of the residents and therefore no, when did that happen? Who decided what Dunes City decided? It didn't happen. Thank you."

John Scott, 83416 Parkway Drive:

“I actually was a Council Member when we passed Ordinance #203. At that time we were concerned about water quality as we are today and I think we made a good faith effort to come up with a solution to the problem, the apparent problem we had. I was very much in favor of it then and I am still in favor of an inspection and pumping program. I think one of the problems we have though is that we have gone with the five year period and we haven’t been successful in having all, I believe it was 864 odd homes inspected and pumped and part of this is because we do not have the ability to enforce the Ordinance. Having said that, I think, what do we need to do? Well, one of the things we have is quite a few people who buy homes in our area who are prior urbanites if you will, they have always lived in areas where they had prior sewer service or waste water treatment plants. And if you look at most of those areas and even in Florence, they are somewhere between \$50 and maybe \$80 a month in the Portland area. And we are looking at people spending on an amortized basis maybe \$125 to \$150 a year to have it pumped every few years. So it really isn’t a big price for a lot of assurance. So what do we do to educate these people who move in. Well, one thing, what most realtors do is they make it a condition to the sale that the homes have their septic’s pumped and inspected prior to close of escrow. And I think that is a great deal because people were a little more aware of it. And maybe that is way we need to go. Again, my preference would be that to continue on with a mandated program but if we don’t have the ability to enforce that maybe then we should seriously consider an enhanced education program. A couple of things we may want to do is, and I know it is a burden on the City, but to continue to send out notices to the people. And say look our records who it has been eight years since you have had your tank inspected maybe you need to do that because if your system fails then you are really going to be into some heavy money to repair it. They are old people like me and they get forgetful and don’t remember how long it has been and they need a little reminder. You know it is kind of out of sight out of mind and pretty soon it has been 6,8,10 years since you have had it done. And the other thing we might consider doing if we go to educational program and have the septic pumpers if you will, licensed septic maintenance people continue to give Dunes City the reports so that we can put it in the property files. So then maybe we could use that to kind of notify people when their time is up. Anyway, just my thoughts and right on the money and I thank you for your time.”

George Burke, Dunes City Resident/PC Member/Ordinance Review, 4838 Lake Blvd:

“I spoke to you a few months ago in favor of 210 which is now 210A. I was on the Committee that developed with the other members. I think it is important to have a common sense testing program and like John Scott, most of what John Scott asked for is in 210, except for the mandatory pumping. I don’t believe in mandatory pumping other than the fact that it be verified that the system, or that the septic tank needs to be pumped by a licensed or certified technician. So, I think you can do some damage to your system pumping it all the time if it’s not needed. We tried to expand the, in 203, we tried to expand the length of time between pumping so there was given some reference given to the amount of the people in the home, and the amount of time spent in the home and this does, 210 does the same thing. When we were on the, when this was before the Planning Commission we went round and round. It wasn’t a quick decision for us. We spent three hours on this and our conclusion was that to pass both 210 and 211 to include a real comprehensive education program along with the 210

minimum requirements. Other than that I will answer any questions, other than that, that is all I have to say.”

Mark Chandler, 4934 Lakeshore Drive:

“Ms. Mayor, Councilor Members, thank you for the opportunity. As you guys may be well aware of I have been monitoring our lake waters since 2002 and thanks to some funding from the City we were able to put together a pretty comprehensive monitoring program in 2005. I would just like to bring a little bit of that data to your attention to this evening. The total phosphorous levels that we found averaged 12 micrograms per liter in 2005. In 2006 the original Septic Ordinance was passed. In 2008 the total phosphorous levels were averaging 9 micrograms per liter. In 2010 the average total phosphorous levels were averaging 5.3 micrograms per liter. Now you guys are aware that the lower the phosphorous level the less likely we are to have any problems with algae blooms in the lakes. We certainly can’t draw a straight line between adoption of the Septic Ordinance and the drop in nutrient levels. But is it a complete coincidence that we in 2010 the levels were less than half they were between 2005? I don’t think it is a complete coincidence. The Ordinance may need some tweaking and perhaps some kind of variable schedule based on tank size and occupancy of the home and that is a reasonable approach. I urge the Council to table these two Ordinances until the inspection schedule has been completed for the entire residents of, the entire City area so that everybody gets their initial inspection which includes pumping. After that I would certainly be in favor of re-opening question and coming back to take another look at an alternative ordinance. Thank you.”

Cynthia Chandler, 4934 Lakeshore Drive:

“Thank you everybody. My husband Mark is the one who does the water tests and I believe in clean water. I believe that the Septic Ordinance was brought into place to get a good database for what is going on in our community. We are 69% finished with that database. I do not see the wisdom in stopping the program. There have been all, 69% of us have paid. Have had our septic’s cleared. There have been, I don’t know, 12 septic systems that were failed and those are being repaired. How many are left to be repaired we don’t know but I think it is only fair for the quality of our future water and the assessment and the adequate assessment of our community that everyone be tested to get an adequate database to go forward. Cost has been the only thing that I have heard, has been the major issue and why this is all happening at this point. And I think as John Scott said you know people pay for their septic in town it’s just because we have septic systems doesn’t mean we are void of all responsibility to pay for their upkeep and maintenance and to make sure that they aren’t contaminating our water system that we all use and need. Thank you.”

Del Riesenhuber, 5394 Canary Road:

“Thank you Madame Mayor and Council, I have not a whole lot of detail like all the other people have presented but that is okay because somebody has to get to the point. Basically, I would like to be recognized for my public input here, I think you do. On behalf of my wife and I, we are opposed to the two Ordinances and urge the Council to vote no on both. Ordinance 211 has the effect of eliminating oversight of sewage in Dunes City and creates a public health hazard and jeopardizes our Woahink Lake Water Supply. This is directly contrary to the Comprehensive Plan. Ordinance 210A will severely limit septic inspections and there-

fore jeopardize our water supply. Existing Ordinance 203 was adopted after careful thought and expert input and is intended to assure appropriate management of septic systems within Dunes City. Both of the proposed Ordinances will negate the desired benefits of Ordinance 203 and will allow further contamination of our Woahink Lake Water Supply by eliminating and curtailing much needed oversight. And while I am here I also represent the Woahink Lake Association, may I talk for them too.”(See further statement below).

Del Riesenhuber, Secretary for the Woahink Lake Association, PO Box 43, Florence:

“I have a document here. The Woahink Lake Association Board is opposed to both of these proposed Ordinances and hereby reserve our right to file a LUBA appeal should either of these proposed Ordinances be adopted by Dunes City Council. Preservation of the quality of Woahink Lake is a primary concern of the Woahink Lake Association. We are opposed to these proposed Ordinances because they do not follow the direction of the Dunes City Comprehensive Plan and will allow further contamination of Woahink Lake by removing much needed controls over septic systems and run off of pollution in Woahink Lake. Now that concludes me. Thank you.”

Darlene Beckman, PO Box 39, Westlake:

“I just have a brief statement to read for your consideration. The current Septic Maintenance Ordinances require that all Dunes City septic systems be inspected and pumped, whether they actually need the inspection or the pumping. This has already created an expense to most of the City’s property owners and will impact the remainder in the near future as the first round of the required inspections and pumpings are completed. This expense to our property owners may not have been necessary. In most cases the inspection confirmed a healthy septic system. An estimate puts the average cost to a property owner for mapping, inspection, pumping, and a Dunes City fee at approximately \$700 per household and several were reported to be much higher. Simple math shows that the 781 existing septic systems already in Dunes City, multiplied by estimated \$700 per homeowner comes to a total expense of over \$545,000 to the good property owners of our fair town. There have never been any specific data; there have never been any specific data on the lakes within Dunes City that scientifically proves that improperly working septic systems have impacted our lakes’ quality. When there is verifiable science regarding our lakes that justify more water quality supervision we should then implement proven measures to protect the water quality. Therefore, we should not continue to demand that the citizens of Dunes City pay for mandatory septic system inspections and septic tank pumping when there has been no verifiable evidence that improperly functioning systems are impacting our water quality. We would support passage of Ordinance 211A which repeals Ordinance 203 and initiates an educational program. We would also state that we are concerned about the water quality, as everyone should be surrounding the lakes. We just need to do it with science and with proof and I think then we would gladly do whatever is proven to help us maintain the quality. They appear to be in much better shape now, whether that be due to weather, science or the fact the first inspections were on older systems which tended to have more problems or be more of a problem to our lakes. That’s it. I just recommend your consideration on 211A and thank you for time.”

Peter Howison, Dunes City Resident, 83243 Kendall Lane:

“Mayor Ruede and other Councilors; the original Septic System Maintenance Ordinance in the current 203 have resulted in 70% compliance with 65 systems found failed or failing potentially. So why continue this system that we have had for these five years? Clean water was the initial reason but there is also a health risk associated with septic spills. The previous Ordinances were unanimously passed and supported by a wide variety of City Officials including our current Mayor as well as several Councilors in the audience and several Councilors up here on the dais. The current Planning Commission has wisely recommended, in my opinion, that Council consider both 210A and 211A. Understanding the importance of education, which is provided for in 211 and intermittent inspections which is provided in 210. Where these inspections are individually tailored by using the Oregon State University Extension Services recommended pumping intervals determined by the size of the tank and the number of household members. I think it is a very reasonable way of determining how frequently these inspections should be and recommended pumping if necessary. Two arguments against continuing any Septic Maintenance Ordinance that I have heard voiced include #1) an inability to enforce the Ordinance, we talked a little about that earlier and #2) a lack of time for our staff to follow through with enforcement by the April deadline. Due to our Charter and Code limitations all of our Ordinances enforcement is in doubt, not just this one. The Council, of course, is not going to repeal all of our Ordinances because of this problem. Instead, we should work on the proposed Enforcement Ordinance and pass it in a timely fashion. As far as the backlog of, about 30% of our citizens that have not yet complied, extend the compliance deadline if necessary by 6 or 12 months in order to give the staff and residents the time needed to catch up. In conclusion, please continue the City’s support of citizens to maintain their septic systems. Protect water quality, avoid expensive repairs of failed systems and avoid health hazards. Just like brushing your teeth, it’s like prevention it’s an important thing to do. Pass an Enforcement Ordinance first, delay the final deadline if needed and merge 210 and 211, as the Planning Commission suggested, emphasizing flexible inspection intervals and education. Voting to repeal by passing only 211 is unfair to those who have already complied. Throwing out an effective process the City has maintained for more than 5 years is unwise. Please don’t contribute to deteriorating water quality decreased property value and an expensive sewer system. We can all agree on avoiding these things. Thank you very much.”

Bruce Herbert, 5666 Peninsula Road:

“Been around Dunes City for a little over 41 years and I don’t think I ever seen anything that has raised the kind of anger and consternation that Ordinance 203 has. There are certainly some compelling reasons for having done some of the things that the previous Council did. I think one of things they weren’t mindful of however, was the effect of instituting a tax, which is what this really is to some degree, on the people without the vote of the people. So, I think what you should do is adopt 211 and vote down 210. If there is as much support for having a Septic Tank Ordinance as the supporters of 203 seem to think there is, one of the possibilities out there, in something I think someone would want to pursue, is putting it on the ballot. We have a primary coming up in May of 2012 and they will have lots of involvement. You know it seems like the time for many of the arguments that I have heard tonight is during that sort of process where you are going out to the people and people are having a chance to vote up or down on whether or not they want to have a Septic Ordinance or not.



That it requires pumping and some sort of regular schedule and not in favor of the schedule the way it is now I think it is too much of a one size fits all solution. It doesn't recognize the difference between a family with 10 people who live here all the time and a married couple of a single person who is here 3, 4, 6 months out of the year. So, I think there are some arguments, I have heard some very interesting and compelling facts tonight and some opinions and again I think the time to raise it might be some sort of a ballot measure initiative which should be fairly easy for supporters of that measure to do. But the proper basis for doing that is with it off the books right now so they are making an affirmative decision about instituting that kind of program."

David Bellemore, 83548 Salal Street:

"Mayor, Councilors, I would like to speak to three points. One of them is that I think we should maintain some kind of inspection schedule, inspection requirement. I was on the committee that helped to write 203 and frankly, I would be happy to see it modified or at least not object to it. I think 210A is a reasonable modification. I don't agree with absolutely everything but on the whole I think that's a reasonable modification of it. So, I am in favor, if you are going to repeal 203 I am in favor of 210A. 211 Education Only, the education is going to bounce off most people. There might be a few people that would get an inspection done, take care of, and have regular maintenance just based on education but I really think there needs to be an inspection requirement because that lake is shared by everybody. It's a community asset and in no case do we allow individuals to damage it. Another issue is cost. I think a lot of the reason for the repeal, I heard, the repeal of 203 and the repeal of any requirement for inspection is cost and I would like to share my experience with people. I lived in an area in Indiana, right across the border from Cincinnati where I worked, I had an inspection or I'm sorry, I had a septic system and I had a cistern that collected rain water off of the roof and also had access to a City well, but I had a septic system. While I was living in that house the County Commissioners, basically put in community water and sewer for the entire County. So, they ran it by my house and one day I got a notice that I had to hook up and I had to pay \$8600 to hook up. This was in 1989 dollars and I had to pay \$8600 or I would be evicted from my house. The house would be condemned and I would be evicted from it by a Sheriff's Deputy. Obviously, I paid the money but the point is, and what I had been getting nearly for free, now I am paying \$125 a month for. People who think that the septic inspection is expensive ruin the lake to where we have to put in a 10, 20, 30 million dollar municipal water and sewer system and then pay every month for the maintenance of that system as well as paying it off, that's a lot more expensive then maintaining your septic tank. So, I would ask you to approve, if you are going to get rid of 203, do 210A. We still need some kind of inspection, I can see loosening up, making it fit the individual houses better because the one size fits all in an area where you have people that live here all the time and people that are here for 3 months a year, it is different. But I would ask you to approve 210A, I think that's far better than doing away with 203 which 211 does. Thank you."

John Stead, 83505 South Cove Way:

"I am back to my old trick of giving you a prepared statement since I am probably going to hear the bell ring before I am finished. So, I will leave some things out. First, I would like to make a couple of comments regarding some of the things I have heard this evening. The staff findings that you people have were not publicized as being available to the public. As a

result, many people did not know, in time to react, what the findings were. And so, I would suggest that in the future you say not only is the Ordinance is available but also the Findings of Fact are also available at Dunes City. The CCI Committee has been extensively involved in Ordinance development until this time. Somehow this time the procedure went from the Planning Commission to the City Council, it by-passed the CCI Committee. I think probably if you will review the Comprehensive Plan you might find something about how that should be handled. Now, to look at where we are today. Dunes City was established with a border that runs across the Lake. It could have just as easily been established surrounding Woahink Lake. What this did was, this made a statement to all of us that Dunes City wants to encompass the majority of the lake so we can have a hand in its stewardship. This stewardship has been passed on to this new Council, you have the legacy of that and we are looking to you to work towards maintaining the viability of the lake. Consider the following: according to the Forest's Service's 'Coastal Lakes Watershed Analysis,' 'Eutrophication of Woahink and Siltcoos Lakes is particularly alarming. A 1972 survey of septic tanks found that 36% of all tanks within 100 feet of the lake were performing unsatisfactorily.' This was the statement that caught the attention of the Water Resources Committee. How could we find out which systems work. The County did not have the information. As a result we ended up with, the only way to find out is to survey everybody. The Forest Service, and this is the Federal, also said, 'If nutrient levels continue to increase relatively unchecked problems such as those in Tenmile Lake south of this watershed will begin to take place.' And we are not anxious for that to happen. According to DEQ, 'You can avoid costly repairs by having your septic tank inspected on a regular basis,' and so on. Lane County Sanitation says, 'drainfield system requires regular maintenance.' Dunes City Drinking Water Source Assessment also says that we need to provide a program requiring periodic inspection and maintenance of the septic systems. I am being forced to stop and I have much more wisdom for you but you will have to do without. You will have to read it. I have also for anyone in the audience who might be interested the septic tank maintenance fact sheet from DEQ."

Mary Jo Leach, 84284 Alder Drive:

"I wanted to make a few comments, part of it goes back to the Planning Commission meeting where they talked about this Ordinance consideration. When I bought my house, it was inspected, the septic system passed. It was no good, it was failed; the field was failed. I know of other people in this room who had the same instance where an inspection came in and said it was good and it wasn't. So, what we did is we spent a lot of money, we spent big bucks and we spent \$600 a year on maintenance of these two systems that we have, we have two different properties, two different septics. But both the high-tech type and the only consolation I can have for that is that not only will I not pollute it is more important that land that property that exists here long after I am gone will not pollute. No one living in that space will be able to contaminate the lake through their septic. That's a legacy that can be left. I grew up in the Great Lakes on Lake Ontario which were just trashed and the Finger Lakes which were trashed. The Lake I grew up on is a superfund study point because it is so polluted and it's primarily from septic. There is, people want statistics specifically about septic there is so much empirical data that no one can deny it. It is available every place you turn the two things are related. So, we can't afford to test our water here so somehow somebody's going to wait until we get a test that says gee we fixed this septic and now this is happened to the water. That's preposterous we can't even check, we had to scramble to check

for algae. So, these things are just, these are wish things that maybe somebody would want but there is so much data and it is so persuasive and it follows at every possible public level, this information for anyone who wanted to look to it. Now if you want to not look at it you can choose to put the blinders on at not look. O.K. There is to my specific septic situation the tank that pollutes my well now, if it had been inspected and if the County had been called in as they should have been through site review, that tank would have to have been ripped out because I know it is a failed system, I live next to it, I know it. I know the system has been failed in spite of anyone else might want to say about it and the tank is full. So, you know, he would have to put a high-tech system in at that point, it is the only thing that would go on there. So, here is an example of someone, using something, destroying an existing system and will be forced at some point somebody's going to be forced, to put in a new expensive system by neglect. Thank you."

April Dumas, 83586 Cold Springs Lane:

"I know you have already decided to gut the protections for our drinking water but I have to say why I think that is a bad idea. Everyone knows that Woahink is a unique lake. Only one of three in the world like it. And that since it is spring and rain fed it is very slow to turnover and it takes much longer than most lakes to turnover, making pollution more difficult to deal with. Leaky septic systems in the watershed area do pollute lakes. There is no way of checking whether an old septic tank is leaking without pumping it dry to check for cracks. This is well established; non controversial fact. Tenmile Lake residents didn't want to spend the money to check their septic systems. Now it's too late. Their lake is dead, they can't drink the water. It will cost them more now because of their failure to plan for the protection of their lake. They didn't think it would happen. Reedsport has just had to install a six million dollar treatment plant for their population of 3,000 people. Each house now pays \$150 per month for water. If you want to save money for our residents, as you have claimed, you will identify grant and low interest loan funding for the people that can't afford to repair their septic system. This is the cheapest and most effective way to protect our drinking water. And you need to finish the mapping of 203 before you do anything else. Thank you."

Linda Swarz, 5164 Russell Drive:

"I have sent in this letter, being recently widowed and therefore a single resident and home owner in Dunes City, I am against putting any restrictions, regulations, etc. on how often I must have my septic tank either emptied or inspected. My home has all the necessary permits for the original installation, has been inspected and emptied once already due to Dunes City's regulations. Even though I had it emptied three years before. But I got a threatening letter in the mail that says if you do not do this we can put a lien on your home. And that was also, the tone of the letter that came when we had to put in the meters. I am tired of getting threatening letters from Dunes City as the very first letter I get when I comply and have complied with all laws and regulations of every place I have lived. That is just inappropriate. Also, Wally's Septic Service has a public record of every septic system that has been pumped that is available to Dunes City to call and find out how long it has been since the resident has had their septic pumped. So, why in the world was I chosen to have mine pumped after three years and was fearful of having a lien put on my home so I did it for \$700 I will never ever know. I do up to 2 loads of wash a week and run my dishwasher 1 to 2 times a week. According to Lane County suggested emptying schedule, I do not need my septic emptied but

only into the double digits of years, 10 or more. Please note that I cannot afford, now being widowed having lost half of my income still having a mortgage on my home, to pay for excessive and unnecessary septic emptying or inspections. I pay all my bills, for a roof over my head, for my food, for the health of myself and for things that I really need to do, all my taxes, but not having my septic tank pumped every three years. You may contact Wally's Septic Service for my records which would suffice for what you need to do. One person mentioned that yes it is important that we brush our teeth but how many people realize that if your toothbrush is within 10 feet of your toilet with the lid open that every time you flush your toilet you are in fact brushing your teeth with everything that was in that toilet before it was flushed. Another story just before I finish, we built a home on 45 acres of our farm and I wanted an outdoor shower so when it came for the final inspection, the inspector said I cannot approve your outdoor shower because your wife may pee or "\_\_\_" in the shower and we said we were having empty into the gutter system. He said that is not appropriate, it is not going into the septic system and my husband said may I point out over there on 12 acres that there are 40 cattle and where do think theirs is going. So I think we are being a little bit too picky about exactly, picking on one thing that's bothering the lake instead of looking at more things that are bothering the lake. Thank you very much."

Paul Floto, 83236 Clear Lake Road:

"There has been a lot of erroneous science in this. People have talked about phosphate levels dropping in the last few years as if that had something to do with the septic systems. Human waste has almost no phosphates. Phosphates get into lakes from phosphate fertilizer which Dunes City banned several years ago. It gets into water from laundry detergents which have soluble phosphates and Oregon banned those two or three years ago and it gets into lakes from birds. So, the fact that phosphates have dropped that says nothing about the septic systems it says that banning phosphate fertilizer and banning phosphate detergent has gotten rid of the phosphates. So, that problem has been solved. There was a study cited from the early 70s claiming that 36% of septic systems have failed that was an estimate somewhere else that had nothing to do with septic systems around this lake and the systems around the lake have already been fixed and they weren't failing anywhere near that rate. The main problem I see with 203 is pump every system every five years when if you got a lot of people and a small tank five years isn't soon enough and if you have one or two people and a big tank it's way too often, so 210 does fix that. And there was a gentleman that suggested it to be put on ballot, I think that is a great idea but 203 was already on the ballot because I know of at least a couple of people sitting on the Council who made it very clear in running for re-election that they wanted to repeal the Septic Ordinance and those people got the most votes. You know the people have spoken, the people don't want to get letters saying that are going to get fines \$250 a day and they don't want to get letters that are so complicated that when a neighbor that brought it to me, I've got a college degree, I couldn't figure out what the letter said. And it gave the recorder discretion, I asked him what does this mean, and he said well I don't know. So 203 is a problem, so I think tonight you should vote for 211 the people already said what they wanted there and then put 210A on the ballot and let people vote for it or not. 210A is much better than 203 but you know 211 we need it now the people have already spoken. Thank you."

Mayor Ruede asked the Council if they had any questions for the citizens in the audience that had testified.

Councilor Sathe stated, "I would like Mark Chandler to come up. Back in January when we talked about this originally I asked you, since you are basically the guy that does the water studies and everything, if you could show us exact proof and you've had from January to now, that the Septic Ordinance has reduced the phosphorus or if it was the people not using the phosphorous fertilizer and the phosphorous detergent anymore and I really respect your opinion a lot. So, I want to know if you can tell me with any scientific fact that that's the case."

Mr. Chandler stated, "Mr. Sathe, as I stated in my testimony there is no way to draw that direct conclusion. I think the measures that the City has taken to reduce the nutrient levels in the lake..(audience member interrupted asking for Mr. Chandler to speak up)...I'm saying we think the measures that the City has taken through the past several years to reduce the nutrient levels have probably had a positive effect but there is no way to say 20% of it was from this, from the Septic Ordinance or 40% was from the Phosphate Reduction Ordinance. You know there's certainly, no way to make a, you know, claim that you can attribute any particular amount of reduction to any particular thing but we have seen very positive data through the last several years. So, if we're doing something right I would advocate that we keep doing the right thing."

Mayor Ruede called a short recess at 8:55 pm. Mayor Ruede called the Dunes City Council meeting back to order at 9:09 pm and she announced that in honor of Council President Mills' birthday we have strawberry shortcake in back after adjournment. She went on to thank everyone for their testimony.

Councilor Sathe stated, "I would like to ask Dr. Peter Howison to come up. I basically just have one question, since everybody's has bringing up the CCI Ordinance, the Ordinance 203, was there CCI Hearings for the Ordinance 203?"

Dr. Peter Howison stated, "I, I really don't recall. I suspect there may have been...(audience member [Judy Martin] interrupted stating that she was on the Council then and I don't remember that CCI was involved)...again 203 was passed in 2009 I believe, (looks around), 2010? So, it was passed just recently, it was an amendment to the previous Ordinance."

Councilor Sathe stated, "So, as far as you know there was no CCI process, whatsoever, that you know of?"

Dr. Howison stated, "I don't think that, I don't know for certain but I don't think there was. I don't know that that is a critical issue, it was, well if it is a procedural one then someone should appeal it, clearly."

Councilor Sathe stated, "That was my only question."

Dr. Howison stated, "Maybe it's improper, maybe it should be repealed too. But the original one had a lot of hearings and a lot of CCI input, the original Septic Ordinance, and originally

the amendments to that were just in terms of spacing, there was a glitch in the original Ordinance that allowed people to pump without inspecting and Commissioner Burke will agree or will confirm this, that we were fixing that problem so that people would be required to inspect because they were trying, they were basically there was a glitch in the Ordinance. I wanted to clarify one other comment that was made earlier about this issue of can we prove that the phosphorous levels decreases were caused by the changes in our Ordinances. And what we have to understand is it's like proving the temperature of the earth is going up and what causes it. I mean you have to make a logical assumption. There are lakes throughout this planet that are increasing in their phosphorous because of people living around them and not taking the care to prevent the phosphorous from seepage as well as some other things from going into the lakes. So, it is safe to assume that our efforts are making a difference."

Councilor Koehler stated, "Dr. Howison, on the phosphorous when we had testimony regarding phosphates but we are talking about a chemical an element called 'P' or phosphorous correct...(Dr. Howison replied "Yes")...and that, is that a limiting factor in all eutrophication of lakes?"

Dr. Howison stated, "In most lakes, it is, in our lakes that is true. There is plenty of nitrogen around. There is nitrogen in the air 70% of the air is nitrogen and so that in our lakes where there isn't, well there is plenty of nitrogen, phosphorous is the limiting factor and in some lakes it is a little bit different but that, ours are phosphorous."

Mayor Ruede asked if there were any additional questions and there being none, she closed the Public Hearing at 9:15 pm and announced that we would now begin Council deliberations.

Councilor Sathe stated that he thinks Ordinance 211A is ready to go right now. He went on to comment that Ordinance 210A still has a lot of flaws in it and if this is something that the citizens truly want that we should get it on the ballot and let them vote on it.

Councilor Wells stated that he wanted to make a little clarification on 211A. The main thing in 211A in the "Whereases" was to get rid of the mandatory language on the septic inspections. There is always going to be septic inspections and pumping in Dunes City but it is going to be at a Lane County level. He went on to comment that he does not believe that the City needs to be collecting and maintaining a database. That should be the responsibility of the pumper who is making the money on it. And as far as the education goes, that is just the beginning. Even though we have a year to prepare it, he feels we can have it ready by March of 2012 and have it that is understood that there is still going to be pumping. He went on to comment that he has received input from several citizens that want the septic ordinance on the ballot next November.

Councilor Mills read the following statement:

I was recently asked to show someone scientific studies that demonstrates a connection between leaking septic systems and harm to lake water. I buried myself in research for a couple of days and have come up with hundreds, if not thousands, of such scientific evidence, with

the oldest - perhaps the first, being done in the 1930's in the State of New York. I won't bore you with the details of all the studies I located between 1930 and today, but I can tell you of one study in Nevada that traced a special dye as it migrated for 22 miles underground, where it finally came back to the surface in the marshlands. The most recent study is one that was released by Stanford University last fall which actually traced the pollution plume of a leaking septic system into the groundwater and out into the ocean at Stinson Beach in Northern California. None of these studies, however, were done on Siltcoos or Woahink Lakes where soil structures are likely different.

But even though we do not have a specific scientific study that says leaking septic systems contribute to the detriment of water quality in Woahink and Siltcoos Lakes, the undisputable, scientifically proven truth is, like it or not, leaking septic systems pollute nearby water sources, be they above or below the ground everywhere else in the world.

I am a proponent of the old saying: "An ounce of prevention is worth a pound of cure." I encourage you to think about the potential consequences. If the City Council decides our lakes are not harmed by leaking septic systems and votes to do away with mandated septic inspections, what happens if they're wrong? Now, instead of paying six to nine hundred dollars every five years or so, we're looking at paying \$60 or \$70 dollars a month, on top of additional taxes, to pay for the sewer system the federal government is going to require. And don't think they won't require it. Ask the folks in Lake County, California. In fact, you don't even need to go that far to ask - just ask the folks over in Powers. There having to put in a \$3 million sewer system for the 600 homes there. All because the pollution from their septic systems is showing up in the South Fork of the Coquille. Which would you rather pay for - a sewer system for everyone or the occasional septic inspection? I, for one, say septic inspections.

A looming question is whether Dunes City can enforce an ordinance. The ordinance only requires inspection, so if someone does not comply, then, after following the appropriate process, the City can do the inspection. If an inspection shows the system to have failed, the City now has solid proof to provide to the County or State that a violation has occurred. The County and/or State would then HAVE to step in and take care of the problem. The solid proof is the key.

Knowing as many of the people that live in Dunes City as I do, however, I really don't expect there to be too many who don't comply. Most of us are good, responsible adults who care about our neighbors and our environment - particularly when it comes to our drinking water resources. As for the ones who can't afford it, there is financial assistance available from the Department of Agriculture, Rural Development. They have specific funding programs available to assist low income homeowners with just this sort of maintenance.

I encourage my colleagues on the council to err on the side of caution. Either support Ordinance No. 210A, leave Ordinance No. 203 in place, or come up with some other amendments that address concerns raised, but do not support Ordinance No. 211A.

Councilor Anderson stated that he follows the Planning Commission who recommended approving both ordinances, but I think that 210 has some problems that we need to address first.

One is the inspector and the pumper might be the same company and that invites the temptation to err on the side of more frequent pumping because that would be in their best interest. If we had a City inspector that was qualified, we wouldn't have this problem. Secondly, we need to really put some research and some thought into the size of the tank and number of people on the system because we're not all the same and that has to be taken into consideration.

Councilor Scarberry stated that the one Whereas in 210A that he has a problem with is the one regarding septic system evaluation experts. Everybody who has installed septic and everybody who pumps them considers themselves experts. According to the experts, he has spoken with a properly functioning tank with tow people should be good for 10 or 12 years and then you go down from there. He also has a problem with having one standard for everyone no matter how close they are to the lake or how new their home is. Like some other Councilors, he believes this should go up for a vote. He doesn't know anyone who would not take care of their septic system if it were failing.

Councilor Anderson commented that he is not sure we need 211A because an education program should be part of what we are already doing as a City. He doesn't think we need to legislate education.

Councilor Koehler stated, "Education has been a part of this City for the last 12 years. It has been housed in the form of the Communications and Education Committee. It's informed everybody of stewardship and how to best get along with not only Dunes City but the environment in which you live. It has been crucial that people be given the right information to which the Communication and Education Committee did an admirable job, especially in the last four years when there was such an uproar regarding the Septic Maintenance Ordinance. A lot of things were elaborated in the newsletters and in the festivals so that it would bring ease to the people who wanted to know what's going on in the City. The thing about fairness is that this Ordinance that we have currently, 203, which had been abridged from an existing Ordinance two years prior is fair to all only if it's allowed to continue. If you stop this Ordinance now what occurs is the 30% of the people that haven't done any work on their septic are going to be given a free ride where everybody else hasn't. I tend to think that allowing like the Communications and, not the Communications, the Water Quality Committee in their decision to have this these two Ordinances tabled would enable us to evaluate what's been going on and to enable other people to find that everybody has been taking part in this process. If you eliminate that process you get the 30% that are feeling mighty high and mighty because of it, so to be able to complete this is critical. The having 203 in place and modifying it may be another way to go but once we give the reigns of power over to a commercial entity or to the County we're going to have a major problem because number one the commercial entity's main course is profit. We are a public institution that tries to establish health and welfare for the citizens of the City and so, if we can't do that and we expect other people to take on our job for us I don't know what I am doing here. The other thing is if we have a, if we were to consider this a sewer issue this is a City maintenance in a way of a sewer where everyone is participating. They all have a say, they all are contributing, they're all being part of a community and a solution to a problem, rather than spending like one person



son that testified up to \$65 million dollars to set up both the water system and the sewer system. Running pipe in this topography is going to be a bear and since we didn't have too much benefit when we tried to establish a water system in Westlake, it got voted down three times, I am having a hard time if people don't see the value of putting in \$100 a year in inspections what they are going to feel like like Mr. Scott said when there's going to be spending close to \$500 a year. It's important to also realize that in the Septic Maintenance Ordinance that's currently available to us there's a form and it's filled out by a licensed inspector. That form indicates how much how many rooms are in the house how many people are in the house and it evaluates the size of the tank and whether or not it's going to be in compliance. So, what happens is that, a lot of people are thinking well we have to make that decision that's part of the licensing process, it's the licensee that takes on that issue. The enforcement part of 203, yes was a lien, and in the beginning it was light and then unfortunately there were words out that it sounded too hard for people to deal with and that could be improved through proper writing. But there, what's important I think, to realize is that there is a legacy here and the legacy is that what we doing are we going to be able to say that we did something for the betterment of everybody and if we are then what is it and currently I can't see that in either 211A or 210A. If perhaps a CCI were developed so that people could input their information and they get feedback rather than just having an Ordinance drawn up it may help, not only with the Ordinance but also with the context of the community. It's important to realize that 203 did a lot of work in order to help water quality and the, unfortunately I can't say anything about the Planning Commission. The Planning Commission's decision to give us the reigns in both of these when they were given two votes on one Ordinance and both of them failed is something to be looked into also, on a legal side. I am considering the fact that 210A was voted on twice in the Planning Commission and 211A was voted on once in the Planning Commission individually, and both times they failed but if given enough time the Planning Commission got into putting something forward like having both Ordinances go through which gives us no direction what so ever. The idea of having the Water Quality Committee give this great feedback about letting this Ordinance run its course, assessing it after its runs its course is probably the most sufficient one I have seen."

**Councilor Sathe made a motion to approve Ordinance #211A. Councilor Wells seconded the motion.** Mayor Ruede asked if there was any further discussion about this and hearing none, she called for the question. **The motion passed by a vote of 4 ayes and 2 nays (Councilor Koehler and Councilor Mills).**

Councilor Sathe expressed his satisfaction with how this has worked out and while 210A needs some work he thinks that if the citizens really want it that it should be put on a ballot.

## **11. New Business**

### **A. Site Review Committee Temporary Chairman Appointment**

City Recorder Fred Hilden explained that the reason this item is on the Agenda tonight is because the City has received a signed written complaint against the current Site Review Committee Chairman's property and it was felt that that person should probably step aside and let someone else chair the committee during the evaluation of that complaint.

Chairman Sathe explained that as the Road Commission Chairman, he would be going out on the site review anyway and if he is appointed as the temporary chairman, it would kill two birds with one stone.

**Councilor Wells made a motion to appoint Councilor Sathe as the Site Review Chairman to inspect his (Wells') property. Councilor Anderson seconded the motion. The motion passed by unanimous vote.**

## **12. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA**

Councilor Anderson inquired about the LCOG status and why it wasn't on the agenda. Mayor Ruede explained that she had removed it from the November agenda because of all of the other matters on tonight's agenda. City Recorder Fred Hilden provided a quick update thanking Councilor Koehler for providing background materials on Dunes City's history with LCOG. Councilor Koehler commented that he had included information for the City Recorder to invite those individuals who were involved at the time with LCOG to come in and talk in a conference.

Councilor Wells commented that since tomorrow is Veterans Day, he wanted to thank all the Veterans for their service.

Council President Mills announced that there would be an Ordinance Review Committee meeting on Monday (November 14<sup>th</sup>) at 9:00 am. The agenda has been posted.

Planning Commission Chairman Riechel commented that having two interrelated ordinances in one public hearing created an almost impossible situation for the Planning Commission to create a decision. He requested that should the City ever entertain two or more interrelated ordinances, that they be heard at separate hearings. Councilor Koehler asked why the Planning Commission had felt it was necessary to vote twice on one ordinance (#210A). Chairman Riechel replied that it was a combination because we had approved the Staff Report because both ordinances were in compliance with our Code and Comprehensive Plan and then the Planning Commission first voted down 210A and then voted down 211A and we had difficulty gaining consensus on what recommendation to make to the City Council.

## **13. EXECUTIVE SESSION - NONE**

#### 14. ADJOURNMENT

**There being no further business to come before the City Council, Councilor Scarberry made a motion to adjourn the meeting. The motion was not seconded and no vote was taken.**

Mayor Ruede adjourned the meeting of the Dunes City Council at 9:45 pm.

**APPROVED BY THE DUNES CITY COUNCIL ON THE 8<sup>th</sup> DAY OF MARCH 2012.**

[ Signed copy available at City Hall ]

Rebecca Ruede, Mayor

ATTEST:

[ Signed copy available at City Hall ]

Fred Hilden, City Recorder

**DUNES CITY ORDINANCE REVIEW COMMITTEE**  
**REPORT TO CITY COUNCIL**  
**NOVEMBER, 2011**

The Ordinance Review Committee met on October 10<sup>th</sup> and 24<sup>th</sup>, 2011.

At the October 10<sup>th</sup> meeting, a discussion of Section 10.99 (penalties) and Title 9 (nuisances) took place. The committee recommends that all processes regarding abatement, fines, appeals, etc., should go into Chapter 36 (how it is done), with prohibited activities to remain in Title 9, General Regulations (what not to do). It was the opinion of the committee that this would make it easier for residents to understand what the prohibited activities are and how the process works and what steps are to be taken.

The committee also feels that the animal control ordinance, No. 178, should probably be repealed since it is all covered by Lane County and the State anyway, and further, since the City can't afford to enforce it anyway.

The Committee also developed a standard check list of the information that should be included in the formation documents of all committees and commissions. The Committee also supports the City developing goals for each year and relaying that information to the committees, so the committees can develop their own lists of tasks to be done and the committees should be given the authority to create task force or ad hoc committees to do those tasks as necessary.

The focus of the October 24<sup>th</sup> meeting was the Code Enforcement ordinance. The draft language was discussed at length and amendments made. The committee recommended that the revised ordinance be placed on the next City Council agenda for discussion.

The next meetings of the committee were scheduled for November 7<sup>th</sup> and 28<sup>th</sup>, 2011, at 9:00 a.m. at Dunes City hall.

Parks and Recreation  
Council Report 11-10-11

All commissioners were present for the 10-24-11 Parks and Recreation Commission. I described the motion made during the council meeting. That motion, that the Parks Commission take on the responsibilities of the Communications and Education Committee by way of the Festivals, and other city events. Susie quoted the mayor as saying, "Just because your committee has certain assignments of duty does not mean that you have to do them." Susie described the dozens of people needed to cooperate in the four educational Festivals. Electricity, tables, presenters and speakers, proximity to Dunes City, having a quiet, dry and enclosed area for speakers was important during other events. Stewardship of the lakes through awareness and education and not selling things was its purpose. With volunteer help these events created increases in revenue over the years. **The commission passed a motion to decline the invitation to take on responsibilities for the Festivals.** Owing to the time involvement many in the commission are not able to complete this task.

The previous work done on the signs and their corrections were reviewed and final billing was approved to the contractor. A well thought out, long lasting carved or sandblasted wood sign is the commission's suggestion for future sign needs.

Boat washing was an issue and calls were made to the state's Marine Board and County Parks Dept. Volunteer reporting was suggested by the marine board. New signs enable better enforcement as those who disobey the signs can be charged with disobeying a sign. Tyee campground is open to parking until January 1<sup>st</sup> with the park's \$5 fee relieving the parked car congestion on Pacific Ave. My thanks to Gary for his work on this.

During the summer Byrd Park incurred maintenance and over-cuts by unknown persons.

The commission looks forward to helping to inform citizens of local wild animal dangers and writing articles for the newsletter.

There is still no word from the Recorder regarding the Council's direction to establish Dunes City parks legal standing with the Lane County.

Our next meeting will be December 5<sup>th</sup> at 4pm.

Richard Koehler Parks Chair.

**DUNES CITY WATER QUALITY COMMITTEE**  
**REPORT TO CITY COUNCIL**  
**NOVEMBER, 2011**

The Water Quality Committee met on October 19, 2011. The Water Testers reported that clarity in Woahink is somewhat diminished. Del Risenhuber and Dave Dumas are taking bacteria samples, which have, so far, come back negative. Mike Rivers attended the meeting and updated the members as to various water quality improvement projects being done at the park. The Committee discussed the proposed septic ordinances and developed the following recommendation to the Planning Commission and City Council:

**The Water Quality Committee recommends that consideration of Ordinances 210A and 211A be tabled; and that Ordinance 203 continue beyond the compliance deadline, at which time the committee urges that a comprehensive evaluation of the effectiveness of 203 be completed.**

The next meeting of the Water Quality Committee will be Wednesday, November 16<sup>th</sup>, at 3:00 p.m. at City Hall.

Emergency Services Report to City Council  
November 10, 2011 ~ Prepared by Fred Hilden

Council President Jamie Mills and I attended the West Lane Emergency Operations Group meeting on Monday, October 17, 2011. During the meeting, Peace Harbor Hospital's full membership was confirmed with signatures of existing members. Everyone concurs that the hospital will make a great addition to the group.

I announced the City Council decision to appoint the City Recorder as the voting member of WLEOG. I also announced Don Hayes' resignation as Dunes City's Emergency Services Coordinator. Mr. Hayes was present and I thanked him for his hard work and service.

There are two important areas that need my attention and participation relative to emergency planning. The first, short-term requirement is to establish a method to transport people across the Siuslaw River in the event of a bridge failure. The second and much more long-term project is to update Addendum III, the Dunes City Emergency Plan.

I have attached the approved minutes of the WLEOG meetings from August and September for your review.

Respectfully submitted,

Fred Hilden  
City Recorder

City Recorder / Planning Report to City Council  
November 10, 2011 ~ Prepared by Fred Hilden

During October we continued the Planning Commission work on Chapter 155, Zoning and Development, in four special sessions. We also conducted a Planning Commission Public Hearing on the proposed septic ordinances during the regular session on October 27, 2011.

Contract Planner Melissa Anderson prepared the Staff Report and Findings of Fact for this Public Hearing and they were unanimously accepted and approved by the Planning Commission. Ms. Anderson also completed the Planning Commission Findings and Recommendation to the City Council as well as the City Council Staff Report for the proposed septic ordinances.

The Road Commission and Planning Commission reviewed a letter from the City Attorney clarifying the two groups' responsibilities relative to Chapter 155 matters that pertain to City streets and the Master Road Plan. The City Attorney's letter is included as an attachment to this report.

Also during the Road Commission's Special Session on Friday, October 28, 2011, we reviewed the Comprehensive Outline provided by Gary Baker for changes to the Master Road Plan. The validity of the Master Road Plan was also verified by the City Attorney, indicating that since Dunes City has a population of less than 2500, there is no requirement for the City to adopt an acknowledged Facility Plan. Therefore, Ordinance #171 (adopting the MRP) should be valid as a general City ordinance, and can provide the basis for long range planning efforts, as well as an SDC Capital Improvement Plan.

Also during October I worked on recruiting for the open Administrative Assistance position at City Hall.

Respectfully submitted,

Fred Hilden  
City Recorder