

**DUNES CITY PLANNING COMMISSION
REGULAR MEETING
May 18, 2006, 7:00 p.m.**

I. CALL TO ORDER

Acting Chair George Burke called the meeting to order at 7:00 p.m.

ROLL CALL

Present: Acting Chair George Burke; Commissioners, Susie Navetta, Ron Shearer; Planning Secretary, Teri Tinker, City Attorney Gary Darnielle, and several citizens in the audience. .

II. APPROVAL OF MINUTES –

ACTION: Ron Shearer made a motion to approve the March 16 2006 minutes as presented. Susie Navetta seconded the motion. There were 3 ayes, 0 nays. Motion carried.

III. NEW BUSINESS:

A. Nomination of new Planning Commission Chair

ACTION: Susie Navetta nominated George Burke for the Planning Commission Chair. The nomination was seconded by Ron Shearer. There were 2 ayes and 0 nays. Nomination passed.

IV. NEW BUSINESS:

A. Beckman Overlay Removal

George Burke announced the public hearing and read the criteria for public hearings. Burke asked any of the Commissioners if there were any ex parte contact. There were none. The Commission said they had visited the site with the Beckman's and Tinker. Burke asked if any Commissioner was aware of any facts that were not provided in the staff report. There were none.

Burke opened the Public hearing at 7:08

New information was handed out. (See Exhibit A)

Gary Darnielle gave the staff report and noted that he and Hilary Dearborn have been working with the Beckman's attorney in Eugene and the proposal that involves the changing of language of Section 156.093. Darnielle said early in the process he informed the Beckman's that it would be difficult to convince the City to remove the open space overlay from the Zone map and Comp Plan map. Darnielle suggested amending 156.093. Darnielle said he suggested they substitute language to show what they would protect, i.e. water, habitat, and voluntarily set limits. Darnielle said staff supports this and would need to express to City Council the need for erosion control during construction and access by water, so the Beckman's would need to look closely at 151.052 and the erosion control regulations that were adopted by the moratorium as an exemption to partitions. Darnielle said they have come a long way on this and feels this provides more protections on Booth Island that is currently provided.

Darnielle asked if Tinker had anything to add. Tinker said she has not had time to read the new information that has been handed to them this evening.

Burke wanted to be clear and asked if the City were still proposing:

1. Zoning code amendment was to take off the overlay zone.
2. Change the wording in the comprehensive plan.

Burke wanted to know if this changes the Comprehensive Plan.

Darnielle said no, just changes the zoning code.

Navetta said it would have been nice to have this information a week ago so they could have studied it. Navetta said they had spent several hours studying stuff that does not even apply now.

Burke said really the only change that we got was additional size of the lots.

Darnielle said there was also language that refers to mobile home and manufactured housing, inconsistency in numbering, and "c" now references erosion control.

Navetta asked if we have a new Staff Report from Hilary.

Darnielle said no, they had been working on this right up to today. Darnielle said the Beckman's attorney sent material on Tuesday and they pointed out some language changes and today they received the final material, so there was no time for a Staff Report

Burke asked if staff was still favorable to this.

Darnielle said yes, to this part of the application.

Burke asked if the Beckman's would like to summarize.

Marvin and Darlene Beckman, 82150 Booth Island, Westlake, OR

Darlene said they were there to talk about the Comp Plan amendment and Zone Change to change the verbiage of the zoning for building on un-platted area of Booth Island. Darlene said they realize the value of the overlay and would like to leave the island as natural as possible, so have proposed that in the old Booth Island verbiage there was a conflict about what would be allowed, plus they have cleaned up 156.193 and have addressed fences, pets, hunting, limited building sites, etc. Darlene said that what is most important to them, and was not available to the Planning Commission last time, is 32 acres with overlay and that the zoning is R-1 would have put 32 homes on the parcel. Beckman said they are limiting the lots as proposed on Exhibit A & B.

Darnielle said they are only changing zoning code, not zoning of property.

Darnielle said it is difficult to get conditional a use permit with a variance.

Burke asked if anyone wanted to speak in support of the application.

Mark Christensen, 1st Ave, Florence, OR

Christensen said they are the owners of lot 3001 and wanted to express confidence in what the Beckman's have done and they have spent considerable time and would like their lot included.

Burke asked if anyone wanted to speak in opposition of the application.

Glen McIrvin, 2111 Loraines Hwy, Eugene, OR

McIrvin said his concern is the process. McIrvin said he probably said he is least informed and felt that he should have had more information sent to him. His concern is that this island is in the center of the lake and that generator noise, lights, houses, and utilities would lose the camping feeling. McIrvin said the City does not have resources to be pro-active instead of re-active. McIrvin said the City Attorney should not be doing the research, and the City should be more in control.

Burke said Gary is our City Attorney and we have to re-act when applications come in to us. Burke said we have codes and ordinances to protect Dunes City.

Darnielle said we wish we had more resources, but no one was around when the overlay was put there and what we thought was-wasn't.

McIrvin said he thought the property next to the division was a common area and on original deed, and he was told that was the case.

Burke said he has gone back and researched and has not seen anything to that affect.

Gordon Robertson, 83623 Jensen Lane, Florence, OR

Robertson said he owns property on Booth Island, Tax lot 1100 and spoke last month and said he was not in favor, nor in opposition and still stands to that. Robertson just wanted to know if the number of parcels (9) would be a safeguard to keep from further partitions. Robertson said Booth Island is different that regulations are needed and residential zoning is not appropriate for the island.

Fuzzy Gates, Canary Road, Westlake, OR

Mr. Gates wanted to know if the Planning commission had received the information he provided. Mr. Gates said he brought the information in yesterday. (Tinker informed the Planning Commission that Burke the data reviewed and said not to put in packet as it came in too late to include). Mr. Gates said there are three types of soils with slopes. Gates said all soils types state "if this unit is used for home site development, the main limitation is low strength of the soil, if buildings are constructed and properly designed foundations and footings help offset the limited ability of the soil to support a load." Mr. Gates read a great deal from a pamphlet. Gates said he is concerned about slumping, and some areas should be restricted for development. Gates said there is need for all the protection that we can get on this island. Gates talked about the higher standards for septic systems especially on Booth Island.

Greg Barnes, 7425(?) Canary Road, Florence, OR

Barnes said he was in the engineering geotechnical industry for eight years, and confers with Fuzzie's assessment of potential failed septic. Barnes said that thinking back to a Council meeting where he blurted out to the Beckman's "why don't you leave the island alone?" And Marvin Beckman said "it's exactly the same as here, what's the difference." Mr. Barnes said "well, build here and leave the island alone." Barnes said he read in the Registered Guard that the Beckman's represent themselves as being ecologically friendly, and concerned about the diversity of the island. Barnes said the exchange at the City Council meeting represented quite the opposite. Barnes said Beckman said there is no difference between that soil and this soil. Barnes said there is potential that if Darlene is on the Planning Commission that she would have to recuse herself because of conflict of interest.

Mark Christensen, 1st Ave, Florence, Oregon

Christensen said he is a registered geologist and has prepared a little background on Booth Island for water wells. Christensen said sand stone makes up most of the coast range, which is the same on Booth Island. (See Exhibit B)

Elizabeth Bartel, 5394 Buckskin Bob, Florence, OR

Bartel said she is not a scientist, but has heard stipulations, etc., but who is going to enforce all these regulations. Bartel said we do not have anyone to enforce here in Dunes City. Bartel spoke of potential problems for neighbors and people applying fertilizers, pesticides, herbicides, and phosphate problems. Bartel wanted to know what will make people not use these products. Bartel said there is only one island and only one opportunity to preserve the lake and wanted to URGE the Commission to take their time and think this over before making a decision thinking towards future generations.

Burke asked if Beckman's would like to make a rebuttal.

Darlene Beckman wanted to thank those who supportrd a good job. Beckman said most of the homes use solar and the generator only runs occasionally, Darlene said she has to open the windows to hear the generator themselves. The cell phones and any of these issues will be taken care of with CC&R's. Beckman said Gordon Robinson who is neutral and wanted to say there will only be an additional five partitions of theirs and two parcels owned by other people. Beckman said Gate's issues and objections are understandable and yes, it is steep, but they are not building on that side, nor are there septic systems in those areas. Beckman said all the septic systems will be on flat areas for all partitions. Beckman said they want to take care of the island and be good stewards, but would like to share with other people.

Burk closed the public hearing at 8:05.

Navetta said she had spent a lot of time going over the Findings of Fact and Hilary's responses and now it is difficult to tell if issues of the Staff Report are still important, and is unhappy with getting information at this late time which does not give the Commission time to read or absorb the information; therefore, would like more time to study.

Tinker noted that the 120 days were up on 6/16/06, so a decision would have to be made to forward to the City Council in time.

Darnielle said the Beckman's can ask for extension.

Burke said the Commission could have a special meeting.

Navetta said if she had to make a decision tonight, she would have to deny the request.

ACTION: Susie Navetta made a motion to continue meeting to May 23rd at 7:00 p.m. Ron Shearer seconded the motion. There were 3 ayes and 0 nays. Motion passed.

V. NEW BUSINESS

A. Interviewing Five Applicants For Two Positions on the Planning Commission.

Burke went over the procedure for the interviews. Burke said the applicants will go into the back room and have each one come out one at a time to be asked questions, then will return to the room and send the next applicant out to the Commission.

Burke said at the last Council meeting he asked for a workshop to go over ethics, ex parte, bias, etc. and so far no date has been set. Burke said the concerns the City has is that large groups of people are on committees and commissions and have the same people doing all this work. Burke said the problem is if three commissioners are at the same meeting there could be a quorum, and if anything is said, it leaves participants open to bias or ex parte contact. Burke said if a Commissioner himself knows he is breaking the law, then it is willful misconduct, and puts the commissioner in great jeopardy, because they be held financially responsible for any litigation that the City incurs. Burke told how this is State Law and how State Governments are run. Burke said that the Planning Commission is asked by the City Council to do any work and that is all that we do. The City Council, in the Ordinances, has the right to add many things to the land use decisions. Burke read the Planning Commission work-book on "Ex parte Contacts". Burke said if you are involved in a group of people that work on issues that are brought to the Planning Commission or City Council, you have to let it be known. Burke said if you do talk, then you have to give the substance to the other Commissioners and to the opponents, or other people applying for the land use decision giving everyone the same information to make the decision. Burk talked about a quorum, if you are a member of the City Council or Planning Commission, three people make a quorum on the City Council. Burke said if three of you meet anywhere, that is an official meeting, and you can't do that without the rest of the Commission being there and it becomes subject to the open meeting laws. Burke explained how three people of any committee can't be on the Planning Commission as this would become a quorum, so each person needs to make a decision on what committees they want to be on.

Darnielle explained Quasai-Judicial versus Legislative issue. Darnielle said you can't talk if the decision is Quasai-Judicial, but can talk if the decision is legislative. Once an application has come in, you can't talk. Darnielle said there will be a training session and that everyone can attend.

Interviews began in alphabetical order:

1. Richard Anderson
2. Darlene Beckman
3. David Bellemore
4. Eric Hauptman
5. Richard Koehler

Deliberations: Burke said we need to fill Lee Riechel's position that ends in 2007, and Les Zemlicka's position that ends in 2008.

ACTION: Susie Navetta made a motion to recommend Richard Anderson for the 2008 position, and David Bellemore for the 2007 position to the Planning Commission for approval by the City Council. Ron Shearer seconded the motion. There were 3 ayes and 0 nays. Motion passed.

V. UNSCHEDULED BUSINESS - None

VI. ADJOURNMENT

Burke adjourned the meeting at 10:15 p.m.

George Burke, Chairperson

Teri Tinker, Planning Sec'y

Richard Anderson, Planning Commissioner

David Bellemore, Planning Commissioner

Susie Navetta, Planning Commissioner

Ron Shearer, Planning Commissioner