



## CITY COUNCIL MEETING MINUTES ~ APPROVED REGULAR SESSION AUGUST 16, 2023 AT 6:00 PM

City Hall ~ 82877 Spruce St. Westlake OR

These proceedings of the Dunes City Council were recorded 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

Council President Snow called the Wednesday, August 16, 2023 Regular Session of the Dunes City City Council meeting to order at 6:00 p.m.

### 2. ROLL CALL

City Administrator/Recorder Jamie Mills called the roll.

**Present:** Council President Susan Snow, Councilor Melissa Stinson, Councilor Rory Hammond, Councilor Tom Mallen, and Councilor Rich Olson.

**Also Present:** City Administrator/Recorder Jamie Mills Planning Technician Lani Noroña, videographer Alan Campbell, Wally Shoults, Audrey Feingold, Carol D (illegible), Greta Davis, Cindy Goldstein, Rapunzel, Robin, Tina Johnson, Bob Shipley, Charles and Sally Bang, Gail Nichols, Steve Rochholz, Lynn Rochholz, Alan Snow, Jerry Horne, Don Anderson, Tina Nelson, Linda Roberts, Jeanne Jackson, Geneva Jackson, and Ted Van der Woude.

**Absent:** N/A

**Absent and Excused:** Councilor Robert Orr.

### 3. PLEDGE OF ALLEGIANCE TO THE FLAG

All who were present stood for the Pledge of Allegiance.

### 4. MOTION TO APPROVE THE AGENDA

Councilor Hammond made a motion to approve the agenda and made a point about reports, saying the Mayor's Report and the Water Quality Report are for people who are no longer on the Council.

Councilor Stinson made a motion to amend the agenda by adding the selection process for the Mayoral vacancy, providing details about the application process, and also for a Council discussion of Dunes City water issues.

Councilor Mallen seconded the motion to approve the agenda as amended.

Councilor Hammond questioned whether water issues should be tabled, as the agenda is full with other Council business.

Councilor Stinson stated that if water issues are tabled at this time, this must be on the agenda for the next City Council meeting.

Councilors discussed whether to include water issues on the amended agenda, or table this issue for a future City Council meeting.

The motion to approve the amended agenda passed, with three (3) votes in favor and one (1) against.

## **5. APPROVAL OF THE CONSENT AGENDA**

Councilor Stinson made a motion to approve the consent agenda.

Councilor Hammond stated he would like to have all the Receipts of the Session, and that he wanted a Council discussion as he had some questions.

City Administrator/Recorder Mills asked Councilor Hammond if he was making a motion to remove the Receipts of the Session from the consent agenda.

Councilor Hammond answered yes.

Council President Snow stated a motion was made to remove Receipts of the Session from the consent agenda. Councilor Olson seconded the motion. The motion passed unanimously.

Councilor Hammond asked about the school excise tax and the payment to League of Oregon Cities. City Administrator/Recorder Mills explained that Dunes City collects the school excise tax, deducts 4% for City costs and sends the balance to Siuslaw School District No. 97.

Councilor Hammond made a motion to approve the consent agenda with Receipts of the Session. Councilor Stinson seconded the motion. The motion passed unanimously.

## **6. ANNOUNCEMENTS / CORRESPONDENCE**

Council President Snow pointed out the Roberts Rules of Order handout in the meeting packets.

City Administrator/Recorder Mills announced the following:

1. Charter Spectrum announced that around September 13, 2023, it will launch carriage of Lifetime Movies Network on channel 137 SD and 864 HD to SPP Select, TV Select Signature, and TV Select Plus tiers of service.
2. On Saturday, November 4, 2023, from 10:00 a.m. to 3:00 p.m. at the Florence Events Center, the Western Lane Emergency Operations Group (WLEOG) will present the 2023 Beat the Wave Disaster Preparedness Expo. Those interested in exhibiting or sponsoring the event can contact Jamie Mills at City Hall or Megan at Florence City Hall.

## **7. CONSULTATION WITH ROSS WILLIAMSON, CITY LEGAL COUNSEL, re:**

A. Putting property taxes on the ballot and;

City Administrator/Recorder Mills contacted City legal counsel Ross Williamson via telephone and placed the call on speaker.

Mr. Williamson asked Councilors if they had any additional questions not listed on the agenda. Council President Snow asked Mr. Williamson to begin with the question of putting property taxes on a ballot.

Mr. Williams stated that Dunes City does not have a permanent tax rate and that the general rule is a taxing district like Dunes City, that has not had a permanent tax rate, may ask voters to approve a permanent tax rate. He explained that this is a “one-shot” deal, and that once voters approve a permanent tax rate that rate cannot be changed. He stated that a ballot measure during a special election requires a double majority vote to pass and a regularly scheduled election such as November, 2024, would require a simple majority vote to pass. He also said that once a permanent tax is voter approved, the City can propose a local option levy or a general obligation bond measure, which both require a vote.

Councilors and Mr. Williamson discussed details of local option levies and general obligation bonds and the differences between these options.

#### B. How to handle public testimony and input for “Items Not Discussed in Public Hearing”

Mr. Williams addressed the question of how to handle public testimony and input for items not discussed in a public hearing. He referred to the agenda for this meeting as an example, stating that it is quite common and acceptable to have a place for public comment on a meeting agenda, to place a total time limit for public comments and a time limit for individual speakers. He stated there is no statutory requirement that public input be included in regularly scheduled public meetings, but that there is a statutory requirement that public comment be allowed for public hearings, budget meetings, and meetings that include raising fees. He said he advocates for public comment and recommends a public comment period be allowed, and that he completely supports the way Dunes City is listing this on meeting agendas.

Councilors and Mr. Williamson discussed details of information that can be requested of those submitting public comment.

Mr. Williamson emphasized that Councilors must inform people that requested information is not required, and anyone can speak during citizen input at a public meeting.

Councilor Hammond asked whether individuals could be removed from a meeting.

Mr. Williamson answered that speakers’ First Amendment rights must be respected, that someone could only be removed if they are disrupting the Council’s ability to continue conducting business. He explained the difference between rudeness and disruption, gave examples of each, and provided options for ways of removing disruptive individuals or adjourning the meeting.

An unidentified audience member began to call out a question to Mr. Williamson.

Council President Snow informed the speaker that questions from the public to the City attorney are not allowed.

#### C. Discussion regarding staff employment and turnover issues

Councilor Hammond stated this issue should be discussed in an Executive Session.

City Administrator/Recorder Mills said Mr. Williamson could explain.

Mr. Williamson said he would first summarize agenda item 7. B., public input, and stated that the person chairing the meeting needs to control the meeting, while treating people fairly and equitably, and that extended time periods for public comment or disruptive behavior can prevent the Council from conducting business. He added that the public cannot prevent the Council from conducting business.

Mr. Williamson then addressed staff employment and turnover issues. He started by saying that the Council can certainly have general policy discussions about employment during public meetings, such as employment policy, hiring employees, and employee retention. He explained that any discussion of individual employees or individual employment matters are issues that he can advise the Council how to proceed, and those conversations often take place during an Executive Session. He informed Councilors that Executive Sessions for employment matters have rules, timelines, and notice requirements for doing so.

Mr. Williams informed the Council that the City has other resources for handling employment issues. He said the City's insurer, City Insurance Services (CIS), provides pre-loss legal services, Human Resource (HR) professional consultation, and said the City's premiums pay for these services. He said that Lane Council of Governments (LCOG) is another resource that has HR experience and expertise, and that LCOG fees are less than the City attorney's fees.

Councilor Hammond stated he has some individual employment issues he wants discussed, that the Council tried to do so in July, and that it has not been adequately addressed "because of the Mayor situation". He added that Councilors need a strategy and this cannot be accomplished in a public meeting.

Mr. Williamson agreed that any discussion of individual employees does need to take place in an Executive Session. He said the Council can initially begin the process by contacting CIS and that the City attorney can assist with ensuring all requirements are met.

Councilor Stinson asked who would contact him.

Mr. Williamson answered that generally the Mayor can initiate that conversation, but the Council can authorize, by motion, a Councilor to contact CIS or himself regarding an employment issue.

Councilor Stinson made a motion to authorize the Mayor, when that position is filled, or the Council President to contact CIS or the City attorney.

Councilor Hammond stated "we can't wait for the Mayor", adding he supports authorizing the Council President to do so and that this needs to be done.

Councilor Stinson clarified the motion to authorize the Council President, in the absence of a Mayor, to contact CIS or the City attorney.

Councilor Hammond seconded the motion. The motion passed unanimously.

Council President Snow requested that Councilors forward any questions to her, so she can have all the information when she proceeds.

Mr. Williamson stated that the point of delegating a contact individual is to identify the person authorized to contact CIS or the City attorney to facilitate the process, and for that individual to relay information back to the Council for a Council decision.

Council President Snow thanked Mr. Williamson and the call ended.

## **8. NEW BUSINESS**

### **A. IGA for Special Use permits for roadways in Dunes City**

City Administrator/Recorder Mills said the IGA is under New Business, as the Council previously tabled it. She then summarized the Intergovernmental Agreement (IGA) between Lane County and Dunes City, which proposes that Dunes City take over issuance of Special Events permits that involve Lane County roads. She stated that, to date, the only Dunes City Special Events are Darling's Marina and the Triathlon and the IGA is for two (2) years.

Councilors and staff discussed details of the IGA.

Council President Snow stated there was no motion made, either for or against the IGA. City Administrator/Recorder Mills stated the issue dies for lack of motion.

- B. Councilor Hammond made a motion that the Mayor poll Council members for items to be placed, or not placed, on meeting agendas.

Council President Snow stated that Councilor Hammond has some suggestions and solicited suggestions from the other Council members and the public.

Councilor Hammond stated "Point of Order". He explained that his request was for the Mayor to poll Councilors about the list of agenda items he had suggested.

Council President Snow and Councilor Hammond debated whether or not the public, at this time, should have input for agenda items.

Councilor Hammond restated his motion is for the Mayor to poll Council members for items to put on the agenda.

Councilor Stinson suggested the matter be discussed at a more appropriate time and location. Councilor Olson seconded the motion.

City Administrator/Recorder Mills asked for clarification, as two (2) motions were on the floor. Councilor Hammond stated there was no second to his motion, so his motion died.

Council President Snow stated that Councilor Stinson made a motion and that Councilor Olson seconded that motion. All Councilors voted affirmatively.

City Administrator/Recorder Mills requested clarification, by asking Councilors if the motion Councilor Stinson made was to table the Council's discussion of putting items on the agenda. The motion, to table discussion of putting items on meeting agendas, passed unanimously.

- C. Discussion of the selection process for the Mayoral vacancy

Councilor Stinson reported that the ad hoc selection committee of three (3) Councilors met and discussed how to proceed with choosing the best appointee for Mayor. She asked that anyone interested in the position to submit an application and resume by September 15, 2023. She also solicited public input for suggestions regarding the selection process.

Councilor Stinson made a motion to open the field of candidates from which the new Mayor would be selected and give interested individuals until September 15, 2023 to submit their applications and resumes. Councilor Olson seconded the motion.

An unidentified audience member called out, asking the length of the Mayoral term.

Council President Snow said the current Mayoral term expires in January, 2024.

The motion to open applications up to all Dunes City residents with a deadline for submission of applications and resumes of September 15, 2023, passed unanimously.

## **9. CITIZEN INPUT ON ITEMS NOT DISCUSSED IN PUBLIC HEARING**

Council President Snow asked if there was any input for items not on the agenda and pointed out that any speakers have three (3) minutes each.

Council President Snow recognized Wally Shoults.

Mr. Shoults asked Councilor Stinson to elaborate on the difference between senior water rights and junior water rights.

Council President Snow clarified that citizen input is an opportunity for citizens to bring subjects to the attention of the City Council for consideration, and Councilors are to listen but not respond. City Administrator/Recorder Mills informed Mr. Shoults he could contact City Hall.

Council President Snow recognized Audrey Feingold.  
Ms. Feingold stated she attended to listen.

Council President Snow recognized Carol D\_\_\_\_\_ (last name illegible).  
Carol answered “no”.

Council President Snow recognized Greta Davis.  
Ms. Davis answered “no”.

Council President Snow recognized Cindy Goldstein.  
There was no audible reply.

Council President Snow recognized Rapunzel.  
Rapunzel answered “no”.

Council President Snow recognized Robin.  
Robin answered “no”.

Council President Snow recognized Tina Johnson.  
Ms. Johnson said she wanted to speak about Short-Term Rentals and asked if that would be at this point in the meeting or later, under agenda item “Old Business item D.”  
Council President Snow said it would be later, when the Council discusses Short-Term Rentals.  
Councilor Hammond commented there is no citizen input during conduction of Council business.  
Council President Snow asked City Administrator/Recorder Mills for clarification.  
City Administrator/Recorder Mills said Ms. Johnson might want to read a letter into the record, but that there is no requirement for anything to be read into the record unless there is a public hearing.  
Council President Snow asked Ms. Johnson what she wanted to say.  
Ms. Johnson stated she had a letter to read and some accompanying photos.  
City Administrator/Recorder Mills told Councilors the letter and photos are in the meeting packets.  
Ms. Johnson read aloud the letter, which described historical problems with a Short-Term Rental and complaints submitted to the City.  
Council President Snow called the three (3) minute time limit and thanked Ms. Johnson for the input.

Council President Snow recognized Bob Shipley.  
There was no audible reply.

Council President Snow recognized Charles and Sally Bang.  
Mr. Bang said he was unsure how the Council would handle the issues of Short-Term Rentals (STRs) and citizen input. He said it was a mystery how STRs were allowed, that STRs are a problem for everybody, and that it should not have happened without citizen input. He referenced other coastal cities he said had reached a moratorium status for STRs and stated that Dunes City was not designed for STRs, as there is no enforcement, no police department, poor access for fire and other emergency vehicles, and a lack of adequate roads for people bringing trailered vehicles. He expressed concern for the lakes, for sanitation, the citizens, and the environment. He advocated for a cease-and-desist order for all Dunes City STRs and said the \$50.00 fee is too low.

Council President Snow recognized Gail Nichols.  
Ms. Nichols passed.

Council President Snow recognized Steve Rochholz.  
Mr. Rochholz asked if he could give up his time for “this lady to finish”.

Council President Snow answered “no”.

An unidentified audience member called out, asking “can he finish reading the letter?”.

Council President Snow stated that the Councilors have the letter.

Council President Snow recognized Lynn Rochholz.

Ms. Rochholz stated “I would finish reading her letter but he won’t let me”.

Council President Snow repeated her earlier comment that Councilors have the letter.

Council President Snow recognized Alan Snow.

Mr. Snow stated “no input”.

Council President Snow recognized Jerry Horne.

Mr. Horne asked if there was a community plan for a fire emergency or evacuation plan.

City Administrator/Recorder Mills answered “no”.

Council President Snow recognized Don Anderson.

Mr. Anderson stated he wanted to read into the record an August 6, 2023 letter that was sent to the Mayor regarding Short-Term Rentals.

Council President Snow recognized Tina Nelson.

Ms. Nelson stated she was just taking notes and declined to comment at this time.

Council President Snow recognized Linda Roberts.

Ms. Roberts spoke about recently added Short-Term Rentals and permits.

Council President Snow recognized Jeanne Jackson.

Ms. Jackson said she would give her speaking time to others.

Council President Snow recognized Geneva Jackson.

Ms. Jackson stated she is concerned about the financial status of the City and said as long as people get a copy of the audit she did not care to speak.

Council President Snow recognized Ted Van der Woude.

Mr. Van der Woude stated “I’ll wait”.

## **10. PUBLIC HEARING**

There was none.

## **11. EXECUTIVE SESSION**

There was none.

## **12. OLD BUSINESS**

### **A. Report on status of referral of Ordinance No. 259 to the Planning Commission**

City Administrator/Recorder Mills informed the City Council that the Planning Commission agreed to review just the staff and public comments made at the May 17, 2023 public hearing.

B. Staff Report on last year Audit report and how recommendations have been implemented

City Administrator/Recorder Mills directed Councilors' attention to the copy of the State required Management's Representation of Fiscal Affairs and the Memorandum reply to the recommendations, which were both included with the meeting materials.

She repeated the fact that the City is not in debt and explained, again, that the City borrowed from one fund into another, to pay for costs of State mandated fish screen installations.

Councilor Hammond referred to a motion he recalled from August, 2022, regarding Quick Books training. He then said he thinks the City should figure out how to pay for professional accounting services instead of City staff doing the accounting. He said the Mayor and City staff sign checks and therefore he does not think it is appropriate for staff to also handle accounting.

City Administrator/Recorder Mills and Councilors discussed accounting, audits, and the budget process. Councilors agreed that a Budget Committee meeting should be scheduled, to decide if the City can afford to outsource accounting services.

Council President Snow requested staff to schedule a Budget Committee meeting.

C. Discuss unclassified account entries in the Profit and Loss Statement of May 18, 2023 through June 14, 2023

Councilor Hammond spoke about unclassified funds and stated he wanted the Budget Committee to review unclassified account entries and ensure that funds are properly classified.

D. Short-Term Rental Ordinance Amendments

Councilor Hammond said his motion would be to define Short-Term Rentals as any residential property rentals of less than thirty (30) days and ban Short-Term Rentals on residentially zoned property. Councilor Stinson seconded the motion.

Councilor Olson said the City attorney should be consulted and expressed concern over lawsuits, and asked Councilors if the proposed ban would be thirty (30), sixty (60), or ninety (90) days.

Councilor Stinson proposed a moratorium on Short-Term Rentals.

Councilors continued discussing Short-Term Rentals (STRs).

City Administrator/Recorder Mills declared a Point of Order and stated that Councilor Olson has an economic interest in such activity and should recuse himself.

Councilor Hammond stated that Councilor Olson owns commercial property, not residential, and that Councilor Olson is allowed to discuss the issue.

Councilor Olson, Councilor Hammond, and City Administrator/Recorder Mills discussed this and City Administrator/Recorder Mills said she had intended to ask the City attorney.

Councilor Olson stated he would save the question to the City attorney and recuse himself, to alleviate any potential problems.

Councilor Hammond asked to table his earlier motion, as he would like to have Councilor Orr present and get the legal opinion about who should be recused.

Councilor Stinson said this has been tabled too many times and asked for the date.

Councilor Hammond said the next meeting and Councilor Stinson clarified September, 2023.

Planning Secretary Noroña asked Councilor Hammond to clearly state the motion.

Councilor Hammond stated the motion is to define Short-Term Rental properties of less than thirty (30) days and ban Short-Term Rentals on residentially zoned properties, and said that he later said he was willing to table it.

Council President Snow stated there was a motion and a second to table this.

Councilor Hammond and Councilor Stinson stated there was no second.

Council President Snow asked if there was a second to the motion to table this.

Hearing no second for the motion to table this, Council President Snow stated Council discussion could continue.

Councilor Hammond stated there could be a vote, but he preferred to have all Councilors present for the vote and have the answer about who could vote.

An unidentified audience member called out, asking if he could mention a Point of Order, and stated there was a motion made and seconded, so the motion is still in place.

Councilor Olson commented that this is Councilors discussing business.

Councilor Hammond replied that he is asking for his earlier motion to be tabled because he wants every eligible Councilor to be present for a vote.

Council President Snow stated that there was no second for the motion to table the issue, so the earlier motion to define Short-Term Rental properties of less than thirty (30) days and ban Short-Term Rentals on residentially zoned properties is the current motion.

Councilor Olson referred to Roberts Rules of Order for controlling the meeting, adding that this is not a public discussion but a Council discussion.

Councilor Stinson asked Council President Snow to clarify the motion for a Council vote.

Council President Snow stated the motion for a vote is the definition of less than thirty (30) days and to ban it on residential property, that the motion was seconded, and is now up for a vote.

Councilor Hammond voted “no”, Councilor Stinson voted “yes”, Councilor Mallen voted “yes”, and Councilor Olson abstained. Council President Snow stated the motion passed.

#### E. Dunes City Water Issues

Councilor Stinson stated that she spoke with people from many of the water districts around Woahink Lake, and stated there are water quality problems due to mandated fish screens, and water quality problems reported to the Oregon Health Authority (OHA). She added that the Council needs to delve further into water quality problems and that the Water Quality Reports at regular sessions of City Council meetings do not address.

Councilor Stinson made a motion that the City obtain a water quality study.

Councilor Mallen seconded the motion.

Councilor Hammond asked who would conduct the water quality study.

Council President Snow reminded Councilors that the Water Quality Committee reports results for the health of the lake to the State, and are not tests for drinking water standards.

Councilor Hammond stated that property owners must treat their own water.

City Administrator/Recorder Mills said that State issued Water Right Certificates differ from those whose water source is under Dunes City’s Water Right.

Councilor Stinson spoke about State defined small community water districts and expressed confusion about water testing requirements.

City Administrator/Recorder Mills offered to share State water testing requirements.

Councilor Olson said there are requirements for a water system that serves more than fifteen (15) households for more than six (6) months per year and provided details of those requirements.

Councilors continues discussing differences between deeded water rights and Water Right Certificates, confusion about differing requirements, and which State agencies to contact for clarification of requirements.

City Administrator/Recorder Mills informed Councilors that a decision would be made by a court, and an action must be filed with the court requesting clarification.

Councilor Hammond repeated his opinion that Dunes City needs a municipal water system.

Councilors continued discussing water quality, potability, health concerns, water testing options, State mandated fish screens, problems with failing intake pumps, repair costs, diver fees, liability, maintenance, health issues, and how to proceed.

There was one (1) vote in favor of the motion and three (3) votes opposed to the motion. The motion for Dunes City to obtain a water quality study did not pass.

### **13. REPORTS**

A. Mayor's Report:

There was none.

B. Community Center Report:

City Administrator/Recorder Mills reported that the women's restroom in the Community Center is out of order and a plumber would be contacted.

C. Water Quality Report:

Council President Snow reported a rise of the surface temperature on Siltcoos Lake, due to hot weather and wind. She added that these are conditions that could result in algae bloom and the situation is being monitored.

D. Road Reports:

Councilor Hammond stated there is a report of someone living in a trailer on Hilltop.

Councilor Stinson reported that Lake Drive, Lake Shore Drive, and Ford Way are overgrown. She voiced a concern about a vehicle on Pacific Avenue that appears to be abandoned.

City Administrator/Recorder Mills stated that Pacific Ave. is a Lane County road and that the vehicle was reported to Lane County.

Councilor Hammond asked about trailers parked in the City's parking lot.

City Administrator/Recorder Mills stated the vehicles in question are parked at the end of Spruce Street, a public road, and not in the City Hall parking lot.

Councilor Hammond asked if the trailers are allowed to park indefinitely on Spruce Street.

City Administrator/Recorder Mills said the City attorney would have to answer that question, and offered to post a seventy-two (72) hour notice for removal of the vehicles. She added that the City needs a camera at City Hall, as she must photograph such incidents.

### **14. FOR THE GOOD OF THE ORDER**

Councilor Stinson asked if minutes from City Council meetings are posted on the City's website. City Administrator/Recorder Mills said meeting minutes are posted to the website after they are approved by the City Council.

Councilor Stinson asked how long it takes to post approved meeting minutes.

City Administrator/Recorder Mills answered that minutes are usually approved every month, but recently the Council has not regularly approved meeting minutes, which is why there are so many included with materials for this meeting.

Councilor Hammond spoke about the conduct of City Council meetings and the order of agenda items. He said he thinks the Mayor's Report should be listed before "New Business" and "Old Business" agenda items. He added that once the agenda is set, his would be easier to make motions.

Council President Snow extended condolences to those affected by wildfires and expressed concern over the possibility of wildfire in Dunes City. She asked Dunes City residents and Councilors to think about the safety of residents and if residents could get out of the City if there was a wildfire. She asked City Administrator/Recorder Mills to contact the Chief of Siuslaw Valley Fire and Rescue, that the City needs to find ways to safely evacuate Dunes City residents, and asked residents to consider trimming brush around their property or other ideas for reducing a wildfire risk.

## **15. ADJOURNMENT**

Councilor Hammond made a motion to adjourn.

Councilor Mallen seconded the motion. The motion passed unanimously.

Council President Snow adjourned the meeting at 8:16 p.m.

**APPROVED BY THE DUNES CITY COUNCIL ON THE 20th DAY OF SEPTEMBER, 2023.**

[Signed Copy Available at City Hall]

Susan Snow, Council President

ATTEST:

[Signed Copy Available at City Hall]

Jamie Mills, City Administrator/Recorder