



**CITY COUNCIL MEETING MINUTES ~ APPROVED
MARCH 20, 2024 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

1. CALL TO ORDER

Mayor Ed McGuire called the Wednesday, March 20, 2024 meeting of the Dunes City Council to order at 6:00 pm.

2. ROLL CALL

Roll Call was taken by City Administrator/Recorder Jamie Mills.

Present: Mayor Ed McGuire, Council President Susan Snow, Councilor Joe Giammona, Councilor Melissa Stinson, Councilor Chris Clemons and Councilor Richard Olson and Councilor Tom Mallen

Also Present: City Administrator/Recorder Jamie Mills, Planning Secretary Lila Timmons, and various Dunes City residents.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. CONSIDERATION OF THE AGENDA

Mayor Ed McGuire asked if there were any changes or corrections that needed to be discussed. There were none.

Councilor Melissa Stinson made a motion to approve the Agenda. Councilor Susan Snow seconded the motion. The motion to approve the agenda passed by unanimous vote.

5. CONSIDERATION OF THE CONSENT AGENDA

Mayor Ed McGuire asked if there were any comments on the meeting minutes or the bills and receipts. There were none.

Councilor Susan Snow made a motion to approve the Consent Agenda. Councilor Chris Clemons seconded the motion. The motion to approve the Consent Agenda passed by a unanimous vote.

6. ANNOUNCEMENTS/CORRESPONDENCE

City Administrator Jamie Mills stated that she had received a letter from Jeanne Jackson and asked the council if they wanted it read into the record. Mayor Ed McGuire stated that the procedure did not require that it be read into the record, but that the letter would be part of the record.

7. CITIZEN INPUT ON ITEMS NOT DISCUSSED IN PUBLIC HEARING

Citizen Jeanne Jackson thanked the Council for including her letter in the record. She stated that she felt it was important for the City to continue working on the budget. She further stated that she hoped that the Council would continue talking about Short-Term Rentals. Mayor Ed McGuire confirmed to Ms. Jackson that Short-Term Rentals was on the agenda if time allowed.

8. REPORTS

A. Mayor's Report

The local contact for the Lane County Public Safety Committee is Keith Cole. Mayor Ed McGuire stated that he has been unable to get a hold of Mr. Cole but would try again.

Senate Bill 1576, Recreational Immunity, has been passed by the House and Senate and is on the Governor's desk to sign. The Governor has 30 days to sign. Mayor Ed McGuire confirmed with the Governor's staff that the Bill has not been signed.

Mayor Ed McGuire asked City Administrator Jamie Mills if she had heard anything in regards to the Dunes City Triathlon. City Administrator Jamie Mills stated that she had made several attempts to reach the organizers but have not heard back.

Councilor Joe Giammona stated that he has heard that the Triathlon might be pushed back to September or October.

Mayor Ed McGuire stated that the website indicated that the Dunes City Triathlon would be held in Florence.

B. Community Center Report

City Administrator Jamie Mills stated that she had nothing to report.

C. Water Quality Report

Councilor Susan Snow stated that she had finally heard back from the State. The State had sent her some material, and requested a meeting. Councilor Susan Snow requested time to go over the material before scheduling a meeting.

D. Road Reports

City Administrator Jamie Mills stated that there was nothing to report.

E. Permit Report

Mayor Ed McGuire stated that the report is in the Councilor packet. Mayor Ed McGuire asked if there were any questions in regards to the permit report. There were none.

9. NEW BUSINESS

A. Planning Commission recommendation to appoint Sean Grundon to the Planning Commission for a term ending January 15, 2025.

City Administrator Jamie Mills stated that the Council referred the application to the Planning Commission and the Planning Commission did make a consideration and entered a recommendation to appoint Mr. Grundon. Mayor Ed McGuire asked if there were any questions, or comments for discussion.

Councilor Susan Snow made a motion to appoint Sean Grundon to the Planning Commission. Councilor Tom Mallen seconded the motion. The motion to appoint Sean Grundon to the Planning Commission passed by unanimous vote.

B. Meet and Greets

Mayor Ed McGuire explained that a Meet and Greet would be a social get together where no City business would be discussed and indicated an interest to have it outside of the Council's chambers. Councilor Melissa Stinson stated that she wanted to have a Meet and Greet to allow citizens to meet the Councilors and speak with them to understand that the Councilors are residents too. Councilor Melissa Stinson further stated that she and Councilor Rich Olson had spoken about having the Meet and Greet at Darlings with Darlings providing hot dogs, etc.

Councilor Rich Olson reiterated it would just be a way for everyone to get to know each other.

Mayor Ed McGuire and the Councilors discussed possible dates and settled on April 9, 2024 from 5-7 p.m.

10. PUBLIC HEARINGS

Appeal request of Notice of Entry of Findings of Fact, Conclusions of Law and Order for Corrective Action as to Jack Thomas Claycomb, Owner and Responsible Party only.

Mayor Ed McGuire read from the Hearing Procedure: Quasi-Judicial Script.

Mayor Ed McGuire asked each Councilor if they needed to recuse themselves from the hearing. All Councilors said no.

Mayor Ed McGuire asked the audience if there was anyone that wanted to challenge the Mayor's or a Council person's impartiality. There were none.

Mayor Ed McGuire continued to read the Script.

Mayor Ed McGuire asked Jack Thomas Claycomb if he had any questions before the Council proceeds.

Mr. Claycomb offered his home for the Meet and Greet. Mayor Ed McGuire stated that the Meet and Greet would be held at Darlings but thanked Mr. Claycomb for the offer.

Mayor Ed McGuire reiterated his question to Mr. Claycomb about having any questions regarding the Public Hearing.

Mr. Claycomb expressed concern whether or not he would have enough time to defend the violations he is claimed to have made.

Mayor Ed McGuire reassured Mr. Claycomb that he would have enough time. Mayor Ed McGuire stated that he understood Mr. Claycomb had asked for more documentation from the City and asked Mr. Claycomb if he wanted to request a continuance to review the documentation given to him.

Mr. Claycomb refused.

Mayor Ed McGuire asked if Mr. Claycomb was ready to proceed.

Mr. Claycomb stated that he was ready.

I. Review of Complaint, Findings of Fact, Conclusions of Law, and Final Order by Code Enforcement Officer Mills.

City Administrator Jamie Mills stated that Mr. Claycomb was the only party to appeal the Notice of Entry of Findings of Fact, Conclusions of Law, and Order for Corrective Action. City Administrator Jamie Mills further stated that she would continue the process for the other two Defendants.

City Administrator Jamie Mills described the meaning of the Quasi-Judicial Proceedings.

City Administrator Jamie Mills reviewed the Complaint, Findings of Fact, Conclusion of Law, and Final Order by Code Enforcement Officer Jamie Mills.

City Administrator Jamie Mills went over the Exhibits and explained what the Councilors were seeing in the pictures.

City Administrator Jamie Mills stated that her biggest concern was the activity in the area of the firepit. City Administrator Jamie Mills further stated that herself and Permit Technician, Pam Palmer, measured from the water line to the firepit and it was only 17 feet. Dunes City code states that nothing is to be done to a property within 25 feet of the Ordinary High-Water Mark. It is a "No Touch" zone.

City Administrator Jamie Mills also expressed concern of an area west of the house which is a wetland area that had a road going through it. City Administrator Jamie Mills previously asked Mr. Claycomb if there was a culvert under the road allowing water to reach the wetland.

Mr. Claycomb indicated that there wasn't one at the time but later said there was one.

Mayor Ed McGuire asked if the wetlands were inundated. City Administrator Jamie Mills stated that she did not know.

Councilor Melissa Stinson asked if any environmental studies have been done. City Administrator said the State would step in once this Order is completed.

City Administrator Jamie Mills stated that Mr. Claycomb had a number of trees removed from his property. She further stated that some of the trees did present a safety issue.

City Administrator Jamie Mills stated that with the pictures you can see that the property does have an issue with erosion and one of Mr. Claycomb's answer was to put asphalt and cement blocks into the water which caused concern with City Administrator Jamie Mills.

Councilor Tom Mallen asked if anything can be done in the Riparian area with a permit. City Administrator stated that the first 25 feet were a "No Touch" area and then in the next 25 feet

from the Ordinary High-Water Mark, code states nothing shorter than 3 feet tall.

City Administrator Jamie Mills stated that it had taken her awhile to move forward with the action due to Mr. Claycomb being a nice man who was trying to give his wife a beautiful view of the lake as she is unwell. The action is necessary at this time because a former employee of Dunes City has filed a complaint with DEQ.

Councilor Joe Giammona asked if the complaint was filed with DEQ on this property in particular or on City Administrator Jamie Mills. City Administrator Jamie Mills explained that the former employee had sent in the same action as the Council was seeing.

Councilor Melissa Stinson asked about a particular picture. City Administrator Jamie Mills explained that picture contained the asphalt in the lake.

City Administrator Jamie Mills stated that according to Dunes City code, Mr. Claycomb is the "Responsible Party" and described the ways in which Mr. Claycomb violated the Dunes City code.

Councilor Joe Giammona asked if the home was developed in the 1930's, is the property grandfathered into pre-existing code? City Administrator Jamie Mills said no, that with each new homeowner, the property must abide by current code.

Councilor Melissa Stinson asked why the trees were not counted to see what percentage of the trees were removed from the property. City Administrator Jamie Mills stated that she forgot that detail was in the Dunes City Code. Mayor Ed McGuire explained that if a permit had been applied for, that detail would have been addressed.

Councilor Joe Giammona clarified that a garden was allowed in the riparian area. City Administrator Jamie Mills stated that it would depend and went over the code for gardens in the riparian area.

City Administrator Jamie Mills directed the Council to page 10 and went over the City Code for Penalties.

City Administrator Jamie Mills described the Order.

Councilor Joe Giammona asked City Administrator Jamie Mills if she followed the Code described in Chapter 36. City Administrator Jamie Mills stated that she did not because that Chapter did not apply to land use codes.

Mayor Ed McGuire read what was allowed for a Penalty and questioned the penalty being asked for in the order.

Councilor Joe Giammona asked the Mayor what the process would be now and if he should hold his questions for a later time in the hearing.

Councilor Joe Giammona asked City Administrator Jamie Mills about the number of violations that would equal the penalty.

II. Response to Complaint, Findings of Fact, Conclusions of Law, and Final Order by Mr. Claycomb.

Mr. Claycomb states that he just paid \$46,000 in electrical upgrades. He stated that he did ask for 2 plug ins for RV's on his property and was turned down by the City.

Mr. Claycomb talked about his neighbor, Eric Ziegler. Mr. Claycomb stated that Eric Ziegler introduced Mr. Devries to him and was surprised that Mr. Devries had filed a complaint.

Mr. Claycomb stated that it was unlikely that the Wells Tree and Landscape truck was in front of Mr. Devries house as claimed.

Mr. Claycomb stated that he understood from the beginning that the way in which his dock

was built is grandfathered in. That no one can build a dock like his anymore. He has kept up the licensing of his dock to try to be a good citizen.

When he was asked to put in fish screens, Mr. Claycomb states that it was done within a week. Again, he was trying to be a good citizen of Dunes City.

Mr. Claycomb states that his home is only about 50 feet from the water and if he followed the rules, his firepit would have been built in his living room.

Mr. Claycomb states that he improved his view of the lake by taking out dangerous trees and brush.

Mr. Claycomb asked if the road over the wetland is the worst thing that he has done. City Administrator Jamie Mills said that there were other violations.

Mr. Claycomb suggests that all claims against him are false.

Mr. Claycomb states that the “frog pond” or wetland area was not able to be seen until he had the brush cleared. Mr. Claycomb further stated that the pond is full in the winter but dries up in the summer.

Mr. Claycomb states that the asphalt was immediately taken out of the lake as soon as City Administrator Jamie Mills told him it was hazardous to the lake and drinking water.

Mayor Ed McGuire re-stated the violations: 1) Mr. Claycomb did not get a permit to cut trees and clear brush in a riparian area, 2) there were cinder blocks in lake water (Mr. Claycomb talked about tires also being in the lake.), 3) Mr. Claycomb removed more than 25% of the vegetative cover, and 4) Mr. Claycomb did not file an Erosion and Sediment Control Plan.

Mr. Claycomb stated he did not get a permit.

Mr. Claycomb talked about a home he had purchased in California that was an acre of weeds.

Mr. Claycomb stated that he didn’t realize he needed a permit to clear the weeds in California.

Mr. Claycomb read a letter he had written to his attorney regarding a letter delivered to him by Pam Palmer, Permit Technician.

Councilor Joe Giammona asked if the Council had a copy of that letter. City Administrator Jamie Mills stated that it was a separate issue and is not a part of the order being addressed by the hearing.

Mr. Claycomb asked if he could address this letter. Mayor Ed McGuire stated no because the hearing was his appeal for a separate action.

Mayor Ed McGuire reminded Mr. Claycomb that the hearing was his appeal to other violations.

Mr. Claycomb stated that he was not a criminal or an outlaw and then read his bio to the Council.

III. Testimony in favor of the City Enforcement Officer and questions by Councilors.

Mayor Ed McGuire asked City Administrator Jamie Mills if she had anything to add.

City Administrator Jamie Mills reminded Mr. Claycomb that if he wanted the return of his money for the cost of the appeal, he had to request it from the Council.

Mr. Claycomb states that he would rather pay \$10,000 for back permits than \$5,000 for a fine which makes him appear to be a criminal. Mayor Ed McGuire assured Mr. Claycomb that this was a civil matter and not a crime.

Mayor Ed McGuire asked Mr. Claycomb if he was going to ask the Council for the return of the \$400 for the appeal. Mr. Claycomb said yes.

IV. Testimony in favor of Mr. Claycomb and questions by Councilors.

Councilor Joe Giammona confirmed the action was taking place because an employee filed a complaint. Mayor Ed McGuire said that the City was between a rock and a wet place because the state is saying there is most likely erosion and potential for water quality issues.

Councilor Joe Giammona asked if Mr. Claycomb applied for a permit for RV parking and was denied. Mayor Ed McGuire stated there was a discussion only about RV parking.

Councilor Joe Giammona said there is an exception on page 2, paragraph 4 which states “except for fire protection purposes, in the Riparian Corridor”. Councilor Joe Giammona questioned how the City determines what is and what is not for fire protection purposes.

Mayor Ed McGuire stated that if a permit had been applied for, any brush/trees, that were to be removed would be identified for fire protection purposes.

Councilor Joe Giammona stated that on page 2, paragraph 6, the statements regarding that Mr. Claycomb wanted to place 2 or 3 RV vehicles on his property should not be included in this action. Mayor Ed McGuire stated there was no violation of Dunes City code in this section.

Councilor Joe Giammona asked if the statement on page 3, paragraph 1, should also not be included in this action since there is no proof that Mr. Claycomb did install a “dirt and rock crossing in such a manner as to cut-off an inland wetland area from receiving further water from the lake”.

Councilor Joe Giammona asked why the City is quoting a letter received from Christine Lietke if not disclosed to the Council. Copies of the letter were provided to Mr. Claycomb and the Council.

Councilor Joe Giammona again questioned the statements in the action regarding people living on Mr. Claycomb’s property without permits with no proof.

Councilor Joe Giammona questioned paragraph 4 on page 4, asking if it is hearsay because it is an interpretation of what was said and not a written statement from the complainant.

Councilor Joe Giammona questioned the interpretation that the Devries “believe the damage being done is substantial enough to cause damage to the water quality of Woahink Lake” since they are not engineers.

Councilor Joe Giammona questioned number 13 on page 8 regarding the rock path, benches and fire pit remaining in place and not replacing them as they fail or expand in any way as an illogical statement. Councilor Melissa Stinson stated that she thought that statement referred to if the City asked Mr. Claycomb to remove the rock path, benches and fire pit, damage would be caused. Mayor Ed McGuire stated that those items will not be grandfathered in as acceptable and removing those items would cause more damage.

Councilor Joe Giammona stated that he would have liked to see a breakdown on the fees for the fines and for the amount of fees the City has incurred.

Councilor Joe Giammona asked if the City was going after the homes that have cleared their properties around the Lake for not following Erosion and Sediment Control measures or if they were grandfathered in.

Mayor Ed McGuire stated it was not a case of being grandfathered in but instead the code says you have to replant, but if you have an Erosion and Sediment Control plan, you follow that.

Those plans will vary depending on the professional who wrote up the plan.

Councilor Tom Mallen asked if Mr. Claycomb applied for a permit to allow RV pads. Mayor Ed McGuire asked Mr. Claycomb the reasons for wanting the RV pads.

Councilor Chris Clemons asked Mr. Claycomb how far back did he clear the brush/trees. Mr. Claycomb stated he cleared the entire 3 acres of his property.

Councilor Chris Clemons asked why Mr. Claycomb removed the trees. Mr. Claycomb said that they were a fire hazard or too close together.

Councilor Rich Olson asked Mr. Claycomb how far he cleared the brush from his house. Mr. Claycomb stated he cleared the whole 3 acres.

Councilor Rich Olson asked Mr. Claycomb how far his home was from the lake. Mr. Claycomb said about 50 feet. He cleared the property to improve his view of the lake.

Councilor Rich Olson asked for clarification on how the Council should address the three violations as he sees it. Mayor Ed McGuire stated that because Mr. Claycomb is appealing the Order, the Council has broad authority to adjust.

Councilor Rich Olson asked City Administrator Jamie Mills if she had told Mr. Claycomb that he needed permits. City Administrator stated she did tell Mr. Claycomb that he needed permits. Councilor Rich Olson asked Mr. Claycomb why he did not get permits after being told. Mr. Claycomb stated he did not know the process.

Councilor Rich Olson stated that Mr. Claycomb had previously mentioned that he cleared a property in California and was cited. Mayor Ed McGuire stated that Mr. Claycomb might have learned a lesson. Mr. Claycomb stated that he was not fined by Oakley, California. Both Councilor Rich Olson and Mayor Ed McGuire felt that Mr. Claycomb had previously mentioned that he was fined by Oakley, California.

Councilor Joe Giammona asked when Mr. Claycomb had asked the City to come out to his property. Councilor Melissa Stinson reiterated the question for Mr. Claycomb. Mr. Claycomb stated he started working on the property from day one of ownership. Again, Melissa Stinson asked Mr. Claycomb if he started working on the property before seeking guidance from the City. Councilor Joe Giammona asked again for a definitive answer as to when he started working on the property. Councilor Joe Giammona asked City Administrator Jamie Mills if she remembered a phone conversation from Mr. Claycomb asking for guidance from the City as to what he could do with his property. City Administrator Jamie Mills stated that she did not remember.

Councilor Chris Clemons asked about an email he received from Lani Naron and asked if Mr. Claycomb had pulled up the link for the Dunes City Code in that email. Councilor Joe Giammona asked if Mr. Claycomb ever remembered looking up the codes. Mr. Claycomb stated he did not recall looking up the codes. Councilor Melissa Stinson asked Mr. Claycomb if he did receive the email from Lani Naron on July 14, 2022. Mr. Claycomb stated that he did not remember.

Councilor Tom Mallen asked Mr. Claycomb if he had been a banker. Mr. Claycomb stated he had been a banker for 10 years. Councilor Tom Mallen asked what Mr. Claycomb had done for the bank. Mr. Claycomb started as a bank teller, and ended up being an Operations Officer.

Mayor Ed McGuire stated he would close the Public Hearing at 8:08 pm.

V. Rebuttal by Code Enforcement Officer – None

VI. Rebuttal by Mr. Claycomb – None

VII. Deliberation by Councilors and entry of Decision.

Mayor Ed McGuire asked if the Councilors wanted to make a field trip to the property and go see what was disturbed. The Councilors felt they had enough with the pictures.

Mayor Ed McGuire stated that in the Order number 1 and 2 do not apply. He further stated that he felt all other items in the order should apply.

Councilor Melissa Stinson asked if there were checkmarks within the 2 year period ensuring that the Erosion and Sediment Control measures are being followed. Mayor Ed McGuire said that could be a condition.

Councilor Chris Clemmons stated that Mr. Claycomb had exceeded the number of trees and amount of brush even for fire safety measures. He felt that a fine amount was hard to determine. Mayor Ed McGuire suggested that the money could be spent on revegetation.

Councilor Susan Snow reiterated the penalty section.

Councilor Melissa Stinson asked if there were a specific person that one could hire to determine the damage that has been done. Mayor Ed McGuire stated that was for Mr. Claycomb to hire.

Councilor Joe Giammona stated that the amount to be fined is only determined by the facts in the Order and not by how much damage has been done to the property.

Councilor Tom Mallen stated that as a homeowner on the lake, that Mr. Claycomb got away with a dream and that for \$5,000, he got a heck of a buy.

Councilor Rich Olson gave a recommendation to the Council for a fine of \$3,000, the fees of the City, and the Erosion and Sediment Control Plan.

City Administrator Jamie Mills stated that the City is complaint driven.

Councilor Joe Giammona feels that the fees should be applied to the rehabilitation of the property.

Mayor Ed McGuire asked City Administrator Jamie Mills if a fine was collected could the money go into the water fund which is known to be short. City Administrator Jamie Mills stated that she would take the Council's direction.

Councilor Chris Clemons stated that as he understands it, we are asking Mr. Claycomb to pay a fine, pay the City's Administrative Costs for this Order, and implement an Erosion and Sediment Control Plan with all permits as applicable.

Councilor Melissa Stinson asks where the money should be used.

Mayor Ed McGuire asked who would like to make a motion.

Councilor Rich Olson stated that he just wanted the outcome to be fair.

Councilor Tom Mallen made a motion for the fine of \$5,000, plus the \$1527.40 for Administrative costs and 3, 4, 5 as prescribed in the Order.

Councilor Melissa Stinson asked if 10 days is enough time to file an Erosion and Sediment Control Plan. Mayor Ed McGuire asked City Administrator Jamie Mills if that was enough time. City Administrator Jamie Mills stated that maybe that should be 30 days. Councilor Melissa Stinson stated she would like to see it at 30 days with City Council permission for any extensions to the timeframe.

Councilor Tom Mallen added the 30 days to the motion. Councilor Susan Snow seconded the motion. The vote was 3 No's and 3 Yes's.

Mayor Ed McGuire asked is he could entertain a new motion.

Councilor Rich Olson made a motion for the fine of \$3,000, plus the \$1527.40 for Administrative costs, and 3, 4, and 5 as prescribed with the Order changing the 10 days to file an Erosion and Sediment Control Plan to 30 days with an extension possible with Council permission. Councilor Joe Giammona seconded the motion. The vote was 3 No's and 3 Yes's. Mayor Ed McGuire broke the tie with a Yes vote. The motion passed.

11. OLD BUSINESS

- A. Hyak Franchise – No report
- B. Collection Agreement – No Report
- C. Short-Term Rental Ordinance amendments

Mayor Ed McGuire suggested this discussion be tabled until the work session.

12. EXECUTIVE SESSION - NONE

13. FOR THE GOOD OF THE ORDER – NONE

14. ADJOURNMENT

Councilor Melissa Stinson made a motion to adjourn the meeting. Councilor Chris Clemmons seconded the motion. The motion passed unanimously.

Mayor Ed McGuire adjourned the meeting at 8:45 pm.

APPROVED BY THE DUNES CITY COUNCIL ON THE 16TH DAY OF APRIL 2024

_[Signature On File At City Hall]_____
Ed McGuire, Mayor

ATTEST:

_[Signature On File At City Hall]_____
Jamie Mills, City Administrator/Recorder