

## Dunes City from 1A

The commission decided to look into multiple ways to prevent the grows, including amending city code to prevent large agricultural grows, regardless of the crop, and creating a moratorium on grow sites pending further research and consideration.

Mills was tasked with looking into these issues, which she frequently did with the commission throughout the following months.

On April 27, Mills explained to the planning commission that Dunes City cannot prohibit grow sites, but it could adopt "reasonable" regulations and/or require Conditional Use Permits.

Allen suggested that the commission could address possible code changes.

On June 22, the commission notes read, "Staff went on to report that research is ongoing into language regulating marijuana grow sites and suggested that research continue and discussion follow at a later date (sic)."

But actual changes to the code were never approved or discussed by Dunes City Council until the complete ban on future grows. The LUCS were also never discussed, except by marijuana grower Valerie Cain-Mathis in April, when she outlined her operation's compliance with city laws.

The council did not vote on the actual LUCS; however, Mills did approve it. Citizens have stated Mills circumvented the council and planning commission by doing this, but city regulations give her full authority to do so.

Oregon State Law 475B.063 states that when a LUCS is submitted to a city for approval, the city has 21 days to approve the LUCS. Cain-Mathis' was approved on Feb. 2, long before the city council and planning commission's joint meeting on

what city laws actually mean regarding grows.

Mills was forced by state law to make a decision within a 21-day time frame, which wouldn't allow for a year's long discussion on city codes.

"Since each of the three LUCS applications submitted to Dunes City are for indoor grow operations, and after consulting with the city's attorney and another at Lane Council of Governments (who stated the grows must be approved), I felt I had no choice but to approve the LUCS," Mills said.

Regarding the fact that Mills submitted the LUCS without Dunes City Council approval, she referred to her contract, which states she is to "work under the direction of the mayor performing other such duties as may arise."

"Since the city administrator is the only official employee of Dunes City (other staff in the office are part time Cardinal employees who do not have sole decision-making authority of the city), I am tasked with duties of the planning secretary," Mills stated. "The planning secretary is tasked with making the final decision on LUCS."

It was neither the city council's nor the planning commission's job to approve the LUCS. It was Mills'.

It's these kinds of communication issues that the city is having problems with, councilors contend. Mills is the only employee allowed to make decisions, and there are no other full-time staff members to look into complex issues.

This also inhibits Dunes City Council's ability to function.

Councilor Duke Wells has frequently blamed himself and the past city councilors for not fully understanding the complexities of marijuana law. In 2016, the council was focused on possible tax issues regarding marijuana. It never occurred to them that they had to think about grow facilities.

"I was on the city council

when this issue came up and we missed it," Wells said. "Somehow it got put aside. I honest to God don't remember this ever coming up. 'Do we want commercial grows in Dune City?' I don't remember that question being asked in a meeting. But, at the same time, obviously it was there to be found. We didn't ask the right questions of staff. I think that's how we got here."

The city's limited staff could not fully address the council on these issues, and a council confused on the full ramifications of marijuana legalization didn't know what to ask city employees. In short, all parties are overwhelmed.

Recently, Dunes City Council has asked for the public to become more involved to help the city.

Wells talked about how he often speaks to citizens on his own about issues, then brings those concerns to council meetings, but finds empty seats in the audience.

"Most of the time there's nobody sitting out there," Wells said. "When it is big issues like the septic system or pot, we fill it up. Which is fine. Like our mayor said, I wish those folks would come here every meeting."

At one time, the city did have more opportunities for public input through multiple committees and commissions, but in April many of these programs

were abolished due to lack of public involvement. In one case, the Dunes City Road Commission had not had a quorum present for months.

"We'd have a lot smoother operation if we had that input all of the time," Wells said.

An attorney for the grow site stated that there is nothing in state law that allows the city to rescind or revoke a LUCS. Any attempt by the city to do so would be unlawful.

The lawyer also made the case that his clients had a vested right to continue their grow operations, as the city had approved the LUCS months ago, the growers have invested large amounts of capital into the project and the city made a contract. If the city reneged, the lawyer said, the growers would have every right to ask for that money back from the city.

"The city council has a duty to protect the interests of all the citizens of Dunes City, not just those that yell the loudest," the law firm said. "Exposing the city to substantial liability is hardly looking out for the well-being of the entirety of Dunes City. ... It is time for the mayor and the city council to stop pandering to a vocal minority bent on bullying my clients out of Dunes City. It is time for everyone involved to grow up and move on."

Dunes City Mayor Bob Forsythe said he was sympathetic with the lawyer's view.

"Even if there was an error in the process, but both sides were acting in good faith, it's not going to matter," he said. "It's just like any other contract. Just because one little thing in the contract wasn't right, it doesn't mean the whole thing was thrown out. So, if you're waiting on line seven, unless it's egregious, there's nothing to do about it."

Councilor Sheldon Meyer asked, "If we go broke, and if we're spending all of our money on legal fees, then what do we do? We don't have money, we don't have taxes."

How the city is funded is a major factor that Forsythe brought up.

Dunes City has limited income sources. It receives money from Oregon Department of Transportation, which is restricted for the roads; a hotel tax, which is regulated to marketing and tourism; a tobacco tax; and fees from building permits. One of the city's biggest income streams is franchise and business license fees.

But the city does not tax its residents.

"We're talking about services that we don't have and don't provide," Councilor Robert Orr said. "I'm not saying that I would want to tax anyone, but how do you provide services without having revenue from a tax in the community? I know where we get some of our

funds, but we don't have a budget."

A major lawsuit could push the city into bankruptcy. Enforcing codes without an infrastructure can cripple justice. The city cannot afford a more robust, full time staff that would help alleviate many of the compliance and communication issues the marijuana situation brought to light.

"The city wants rules and they want regulations and they want us to do these things but we have no teeth," Councilor Tom Mallen said. "Really, the marijuana issue will continue. If we have some rules that we can enforce, maybe it could be helped. It's a delicate balance right now. Here we are, trying to deal with things in making decisions. I kind of wonder what type of teeth we do have."

What these basic functions of a city cannot be met, the council wondered, should Dunes City still be an actual city?

When asked if some of the city's problems led to the controversy of marijuana grow sites, and if these issues could lead to an answer about the city's future, Mallen said, "I think it plays into it quite heavily because Dunes City is obviously expressing an opinion that they don't want marijuana here. So, it would seem, just from all this hullabaloo that we've been through, that Dunes

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