

CITY OF GEARHART  
Public Hearing and Regular Meeting of the City Council  
Wednesday, September 4, 2024  
6:00 pm On-site and Virtual/Telephonic

A public hearing and regular meeting of the Gearhart City Council was held Wednesday, September 4, 2024. Council members, City staff, and the public were able to attend on-site, virtually, or by dialing in on a telephone.

Present were Mayor Smith, Councilor Preston Devereaux, Councilor Reita Fackerell, Councilor Dana Gould, Councilor Sharon Kloefer, City Administrator Chad Sweet, City Attorney Peter Watts, City Planner Garrett Phillips, Executive Assistant Krysti Ficker, City Treasurer Justine Hill, and Police Chief Josh Gregory (*Council Meeting only*). A quorum of the Council was present.

At 6:06 pm Mayor Smith opened the public hearing for section 6.078(8) preservation and removal of trees GZO text amendments. He read the hearing's disclosure statement. There were no conflicts of interest, no ex-parte contact, or no personal bias declared by any member of the Council. There were no audience challenges to the Council's ability to make an impartial decision. Mayor Smith asked City Planner Phillips to go over the staff report.

City Planner Phillips explained that he would give an overview of the redline version draft, which was based on the recommendations of the Planning Commission; as well as, an alternative redline version draft that was submitted by Councilor Kloefer. He talked about the Planning Commission's process, public hearings, and the City Council's involvement. The Planning Commission considered City Council's questions and concerns and focused on three main conclusions: 1) to provide a clearer pathway for City staff to track tree removal, which would allow a quicker response time for concerned citizens; 2) to improve usability by changing the language of the tree measurement from diameter to circumference, which eliminates any math calculation; and, 3) to remove obstacles or delays in dealing with hazardous trees, which allows a quicker response time to address safety concerns. City Planner Phillips went over the redline sections of the Planning Commission's recommended changes (*Sections B, C, D, E, F*). He also went over a document that attempted to illustrate Councilor Kloefer's redline proposed amendment changes (*Section B, C, D, E, F*).

Mayor Smith asked if there were any Councilor questions regarding the redline items that City Planner Phillips discussed. Councilor Gould asked for clarification on the language in the definition section

regarding heritage trees (definition understandable/defendable, tree root zone area, removal); as well as, the feasibility of requiring an arborist or tree specialist to provide a report for dangerous conditions.

Mayor Smith asked if there were any proponents.

- Shannon Smith (774 Pacific Way) referenced one of the goals of the Gearhart Comprehensive Plan, which is to conserve, preserve, and protect open spaces, scenic areas, historic and natural resources in and around the Gearhart community for all future generations. She feels Gearhart has a precious legacy. She referenced the Aquatic Resources of Special Concern. She showed a photo of the historic livery stable. She feels there has been a change in Gearhart in terms of lot designations (unbuildable versus undeveloped). She feels a tree inventory list should be done and the Division of State Lands staff should be invited to review trees. She suggested refocusing arborists on the elimination of invasive species that are damaging trees. She also feels that focusing on a vision for the community is important.

Mayor Smith asked if there were any opponents, which there were none.

Mayor Smith asked if there were any neutral comments.

- Pat Roberts (366 N Ocean) mentioned Sitka spruce trees in the area that are 300 years old. She feels they should be protected and that they are a rare treasure.

*Written Correspondence submitted late and acknowledged in the regular City Council meeting: Molly Meyer (Gearhart Tree Preservation) and Mike Baker (Tree Preservation Comment).*

At 6:47 pm, after hearing no further comments, Mayor Smith closed the public hearing. He asked the Councilors if they had any further questions or comments on the preservation and removal of trees text amendments. Councilor Gould requested clarification from City Planner Phillips on his staff report regarding the statement that the process will require additional unfunded staff time. She was also concerned over listing specific invasive species names. Attorney Watts suggested referencing the State's invasive species tree list instead of specific names. Councilor Gould also requested clarification on tree removal that may impact the City's buildable lot numbers. City Planner Phillip's did note that exception language could be drafted if the Council directs the implementation of heritage tree definitions. Councilor Gould wanted to know if there had been any discussion on prohibiting tree planting in any specific areas (e.g., near water mains), which City Planner Phillips said he did not believe they discussed this issue but it was a valid concern. Councilor Kloefer clarified that when she put definitions for the heritage trees and the root systems in her redline proposal amendments, she did not make them up. They were taken from

national tree care sites, as well as other cities' ordinances. She wanted to stress that there are untold advantages to having trees in the community, which include sound reduction, pollution control, and increased property values. Her primary duty is to uphold the Comprehensive Plan and she is trying to preserve Gearhart.

Mayor Smith called the regular meeting of the City Council to order at 7:00 pm.

There were no conflicts of interest declared by any member of the Council.

#### Approve Minutes.

- ON MOTION by Councilor Fackerell, 2nd by Councilor Gould to approve the minutes of the August 7, 2024 public hearing and regular meeting of the City Council, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepfer, Smith) - 0 nays.
- ON MOTION by Councilor Kloepfer, 2nd by Councilor Fackerell to approve the minutes of the August 12, 2024 executive session of the City Council, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepfer, Smith) - 0 nays.
- ON MOTION by Councilor Gould, 2nd by Councilor Kloepfer to approve the minutes of the August 14, 2024 special meeting of the City Council, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepfer, Smith) - 0 nays.

Mayor Smith asked if there were questions or comments on the Planning Commission minutes that were in the Councilors' packets. He also gave positive feedback on the new report process and felt the minutes offered a more comprehensive view. Councilor Kloepfer requested clarification on proposed amendments (page 5). City Planner Phillips mentioned that there will be a proposed joint worksession (Planning Commission and City Council) to address requirements later in the month.

Mayor's Report. Mayor Smith mentioned that he had been out of the area visiting family.

Councilor Reports. Mayor Smith opened discussion for each Council member's report.

- Councilor Devereaux noted that the last Klash workgroup meeting had been canceled.
- Councilor Fackerell attended the Clatsop Regional Housing Taskforce meeting. She enjoys hearing what other communities are doing in terms of addressing housing issues. They heard information on the City of Seaside's projects to build an affordable housing project near the old Seaside High School; as well as, their launch of Esperanza Village, a new micro-housing shelter project to help assist in alleviating the homeless crisis.

- Councilor Kloepfer participated as a response CERT ham operator during the Hood to Coast event. She attended a meeting presented by Clatsop County Emergency Management Readiness Coordinator, Mike Neelon, which discussed what personal equipment should have in an official CERT backpack. She also attended the Clatsop County Goals 16, 17, and 18 Public meeting in August (*updating Comprehensive Plan related to estuaries, beaches and dunes and coastal shorelands*).
- Councilor Gould continues communicating with citizens about the public safety building. She received a specific request to look further into a facility built in Pasco, Washington. She has also had numerous conversations with a citizen who wants to bring awareness about contractor licensing issues to residents. This citizen had an unfortunate experience that resulted in sub-par work. Councilor Gould passed on information to City staff, who are looking into the business licensure issues. She stressed the importance of verifying contractor licensing with the CCB and the City. She has done some research on fireworks complaints and hopes to report more next month. She also attended a meeting on the public service building with the Klash group and stopped by the Gearhart Association meeting.

#### City Officer Reports.

- Chief of Police. Chief Gregory mentioned the police statistical report was not yet available; however, he verbally went over data. He briefly talked about the repeal of Measure 110 recriminalizing possession of small amounts of drugs and the need for implementing a deflection program. Clatsop County Sheriff's office is taking the lead for the local areas. CIS (City's insurance carrier) came down and provided a police facility walk-through. The facilitator did note some issues that need to be addressed and will be providing a more formal report to the City. He noted that there may be some grants available to assist with some of the required changes.
- Fire Chief. Fire Chief Como was unavailable due to being called out on a conflagration. There was some statistical data distributed to Council members.
- City Treasurer. Financial reports were submitted in the Councilors' packets. Treasurer Hill mentioned the City's auditors visited last week to conduct field work. She briefly covered noteworthy revenues, which included a Charter Communication franchise fee payment, marijuana quarterly tax payments, a conflagration/mobilization payment, and apportionment payments in both the state revenue sharing and state street funds. In noteworthy expenditures, the annual insurance payment for property, liability, and auto, which increased 19% (around \$14,000), which has been distributed between the general fund, water fund, and street fund; a payment to the Sheriff's office for continued law enforcement support, which has been reduced to \$3,000 monthly; fire department conflagration expenditures (in both personnel services and materials &

services); a water purchase payment to Warrenton; building inspector monthly contracted services fee; and necessary vehicle accessories purchases in Fund 78 Public Works Expenditures in preparation for receiving the new public works vehicle. Treasurer Hill also noted that Gearhart's new water rates went into effect July 21, 2024, which created a split rate invoice amount for the August billing cycle properties. Although the conservation tiered rate system was implemented on January 21, 2024, this was the first cycle where many properties are seeing the impacts of conservation rates because of summer water usage. The goal of a tiered consumption block rate system is to encourage water conservation, however, some high water users have expressed concern over what they consider to be a punitive policy for maintaining green, manicured landscapes. She also thanked Angoleana Torres in the building department for requiring contractors to verify their subcontractors for compliance. The building department has started encouraging homeowners to verify their contractor and subcontractors through the CCB to ensure they hold an active licenses, workers' compensation, liability insurance, surety bond and other potential required certifications, as well as ensuring that they have an active City of Gearhart Business License. Councilor Kloefer asked for some clarifications on transactions (Building Inspector Fee, Bigby's Columbia Tree service, Quality Tree Removal, CIS).

- City Attorney. Attorney Watts mentioned FEMA's Oregon National Flood Insurance Program Endangered Species Act Integration PreImplementation Compliance Measures. Because there are pre-implementation compliance measures, a joint worksession between the Planning Commission and City Council is being scheduled. Other local jurisdictions are considering legal action; however, he is not making that recommendation at this time. He reiterated compliance with contractors being correctly licensed and complemented Angoleana (*building department*) on her efforts to ensure contractors in Gearhart are licensed. He gave an update on a request from the fire department to bring a draft document outlining a program to charge fees for services provided outside the City. He briefly reminded Council about the *Sheetz v El Dorado, California* case, which involves ensuring that any system development charges are reasonable and are actually related to City services provided. Councilor Kloefer has a clarifying question on potentially collecting fees for incident responses on the beach, which are outside of the City's jurisdiction. Attorney Watts indicated he has seen preliminary data from the current housing needs analysis that is being conducted, which he feels may have some inaccuracies. He said that Gearhart needs to work hard with the County on making sure that the actual buildable lots are correctly documented and that they are accurately capturing growth in real time. He also mentioned continuing efforts to implement new 4th of July City best practices for next year, which includes potentially limiting parking areas and expanding messaging to High Schools. Mayor Smith requested clarification on verifying compliance of State licensure of contractors in terms of issuing a Gearhart Business

License. Councilor Devereaux has concerns over the feasibility of collecting fees from the State and feels targeting individual insurance coverage seems more reasonable.

- City Administrator. Administrator Sweet's report was sent to the Councilors in their packets. He mentioned continued issues with contractor's work hours. He noted that signs will be placed around town and police will be doing enhanced patrols. He also mentioned trying to schedule the joint worksession for Council and Planning Commission regarding the FEMA BiOp; a walk through of the Ordway property; the process of the active RFP for Architecture and Engineering Services for the public safety building; Town Hall meeting; Building Lands Inventory meeting; insurance rates; property donation request submitted to Pacific Power; police department CIS facility walk-through safety issues; resurfacing of the sports courts; and code enforcement. Councilor Fackerell commented on the RFP selection process. Councilor Kloepfer requested clarification on the police safety remodel ideas that were referenced. Police Chief Gregory mentioned evidence collection issues, reorganizing the current police department space, and access. Councilor Kloepfer was also interested in the usability of the house on the Ordway property, which Administrator Sweet said would need considerable upgrading to meet critical infrastructure requirements (police/fire).

Visitors. None.

Public Communications - Written & Oral. Mayor Smith read the oral public comment statement on the agenda. There was written correspondence submitted by Whitney Nye (Noise Pollution); Molly Meyer (Gearhart Tree Preservation); and Mike Baker (Tree Preservation Comment). Councilor Devereaux inquired on why public written correspondence did not require the same elements (name, address) as public verbal communication.

- Shannon Smith (774 Pacific Way) talked about a water conservation effort that the City of Bend has implemented. She mentioned a local pack of coyotes. She indicated that they have been seen in broad daylight, may be aggressive, and to watch your pets. She also talked about vision versus goals. She feels it would be beneficial for the City to have strategic vision planning. Mayor Smith mentioned that he and Councilor Gould had attended a LOC Strategic Planning meeting, but the priority now is the public safety building. Councilor Devereaux cautioned against moving towards tourism.

Ordinances/Resolutions.

Ordinance 942 - Section 6.070(8) Preservation & Removal of Trees GZO Text Amendments. Mayor Smith opened the topic.

- ON MOTION by Councilor Kloefer, 2nd by Councilor Fackerell to approve Ordinance 942 as the City's preservation and removal of trees to include the redline amendments.
- Councilor Gould has concerns over implementing rules without properly evaluating all the potential impacts. She wants to make sure Goal 10 is being met. She mentioned issues with language in the exception section (arborist report); clarifying more language around implementing a heritage tree rule (definition, property impacts); restricting tree planting in specific areas (right-of-way, unsafe locations, water main infrastructure); and budget impacts (staff time). She stressed that she is not against trees, but would like a clear evaluation of all the impacts.
- Attorney Watts requested clarification on which redline version was being recommended (Planning Commission and/or Councilor Kloefer). Mayor Smith clarified that it was Councilor Kloefer's redline version that was being recommended for approval.
- City Planner Phillips recommended that the Council reconsider a motion to more thoroughly integrated changes, including Councilor Kloefer's redline version.
- Attorney Watts suggested more language clarifications before approval (heritage tree, care of trees, inventory of trees, appeal rights, impacts on property owners).
- After discussion, Councilor Kloefer withdrew her previous motion.
- The motion was withdrawn and Mayor Smith indicated it would be brought back next month with incorporated revisions.

Old Business. None.

New Business. Mayor Smith invited the public to comment on the new business item.

Notice of Elections. Mayor Smith introduced the topic and Administrator Sweet went over the staff report. He went over the "Notice of Election for Gearhart City Council," which listed the open positions and candidates.

League of Oregon City (LOC) Legislative Priorities 2025. Mayor Smith introduced the topic and Administrator Sweet went over the staff report. The top five priorities selected by the City of Gearhart to be submitted to the LOC Legislative Priorities 2025 are: Behavioral Health Enhancements; Community Safety & Neighborhood Livability; Restoration & Recreation Immunity; Lodging Tax Flexibility; and Infrastructure Funding.

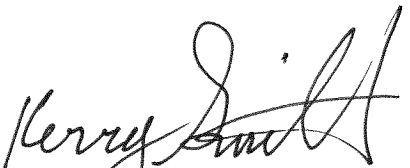
City Administrator Review. This item was tabled to a future meeting.

Council Concerns.

- Councilor Gould felt that with elections approaching, the Council rules should be reviewed in December and there should be a signed acknowledgement of the City Charter.
- Councilor Kloepfer requested from Attorney Watts access to the information regarding the requirement that the City of Gearhart must provide water to the potential development area off of Highlands Lane. Attorney Watts said it is outlined in the water service area map, which could be provided. Councilor Kloepfer inquired about the option of no longer requiring the police department to deliver Council packets; but rather, have Councilors pick up their own packets at City Hall. At a previous meeting, Jessie Stieger, Klash Group, referenced that Administrator Sweet was whom she reported to within the City of Gearhart, which prompted Councilor Kloepfer to review the contract. She would like clarification on the process of how the designated City representative was selected. Attorney Watts explained that in the City of Gearhart all third-party contractors, except the City Attorney, would de facto report to the City Administrator unless a specific City representative was assigned. Administrator Sweet clarified that he is just a facilitator for Klash Group when they need information from the City and is not the decision maker. Councilor Kloepfer values Administrator Sweet's input; however, felt like she needed clarification on how the City representative was selected.
- Councilor Fackerell had no concerns.
- Councilor Devereaux had no concerns.

Adjournment.

- ON MOTION by Mayor Smith, 2nd by Councilor Gould to adjourn the meeting, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepfer, Smith) - 0 nays. Mayor Smith adjourned the regular Council meeting at 8:19 pm.



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Mayor Kerry Smith



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Chad Sweet, City Administrator