

CITY OF GEARHART
Regular Meeting of the City Council
Wednesday, December 4, 2024
6:30 pm On-site and Virtual/Telephonic

A regular meeting of the Gearhart City Council was held Wednesday, December 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 Paulina Cockrum, Councilor Preston Devereaux, Councilor Dana Gould, Councilor Sharon Kloepfer, City Administrator Chad Sweet, City Attorney Peter Watts, City Planner Garrett Phillips, Police Chief Josh Gregory, Division Chief of Training & Operations Park, and City Treasurer Justine Hill. A quorum of the Council was present.

Mayor Smith called the Oath of Office to order at 6:30 pm. Administrator Sweet proceeded with the regulatory process for the newly elected officials' Oath of Office statement. Administrator Sweet swore in the elected officials. Paulina Cockrum (position 2), Sharon Kloepfer (position 4), and Kerry Smith (Mayor) acknowledged their commitment and verbally accepted the Oath of Office statements.

Mayor Smith explained that the Council would be conducting Planning Commission interviews. There were four applications received (Steven Rose, Gregory Busch, Emerson Fisher, Susan Eliot); however, one applicant voluntarily withdrew her application (Susan Eliot). Five questions were asked of the applicants: *1) Do you believe that the Comprehensive Plan as written is still applicable? Does it need to be changed? If so, how?; 2) What are your thoughts for now and the near future for Gearhart - please be as specific as possible and address Gearhart maintaining its residential community feel or would you prefer additional commercial and tourist growth and how they pertain to the comprehensive plan.; 3) How do you see your role as a Planning Commission member in city government? Describe your understanding of the relationship and interaction between the Planning Commission and the City Council.; 4) Are you aware of any present or future conflict of interest you might have as a member of the Planning Commission? If a situation should arise, would you excuse yourself from voting?; 5) Do you, as a candidate for the Planning Commission, have a question of any of the members of the City Council?* City Council members, in a roundtable format, asked each applicant the five questions. The recommendation for the new Planning Commission member would be made later in the meeting.

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

Approve Minutes.

- ON MOTION by Councilor Gould, 2nd by Councilor Kloepfer to approve the minutes of the November 6, 2024 regular meeting of the City Council, MOTION was approved 4 yeas (Devereaux, Gould, Kloepfer, Smith) - 0 nays - 1 abstain (Cockrum).

Mayor Smith mentioned the Planning Commission minutes were in the Councilors' packets.

Mayor's Report. Mayor Smith commented on the Public Safety Building Community Meeting that was hosted by FFA Architecture and Interiors Inc. He has heard both positive and negative feedback. He felt it was well done, had no surprises, and was informative.

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

- Councilor Devereaux had nothing new to report, but did comment that the Klosh Group and FFA Architecture and Interiors Inc were doing what the City had requested.
- Councilor Kloepfer attended the Public Safety Building Community Meeting. She felt it went well. She felt there were good ideas and observations shared. She felt it was productive. She also attended an Airport Committee Meeting.
- Councilor Gould gave a shout-out to all the great holiday decorations! She gave a reminder that the Seaside Chamber of Commerce is again hosting the Tour of Lights event, which includes Gearhart. She continues to gather and hear information on septic systems. She completed the Board of Director's audit questionnaire. She attended a pre-meeting to prepare for the Public Safety Building Community Meeting, as well as, the meeting itself. She felt that attendees were engaged. Councilor Gould plans to attend the LOC City Day at the Capitol event in January. She mentioned that she does not have any new information on the Post Office; however, is not yet worried. She noted that correspondence was left out of the packet from Stewart Schulz and would like to make sure it is placed in the record.
- Councilor Cockrum thanked the 683 people who supported her with their vote. She met with Administrator Sweet for an orientation meeting and is getting updated on the Public Safety Building project. She is also a Community Emergency Response Team (CERT) member, which is now a County group; and plans to attend their next meeting.

City Officer Reports.

- Chief of Police. Police Chief Gregory mentioned the statistical data was not yet available, but noted that compared to last year there are 250 more action calls logged. He appreciated the attendance at the Public Safety Building Meeting. He thanked the Council for their approval of the rifle mounts last month and stressed the importance of the mounts in police vehicles.

- Fire Chief. Division Chief of Training & Operations Park mentioned the statistical data was not yet available. She mentioned there had already been 25 calls this week! She appreciated the people who attended the Public Safety Building Meeting and provided feedback.
- City Treasurer. Financial reports were submitted in the Councilors' packets. Treasurer Hill mentioned property tax collections appearing slightly lower than anticipated. She also mentioned receiving the reimbursement grant funds for the sports court restriping project. There were expenditures to the fire department student intern program. The planning department continues to need more support than anticipated due to more time intensive projects (PICM, Tree Ordinance, BLI reviews). Expenditures eligible for ARPA water infrastructure improvements have been transferred from account 71-7199 Improving Water. She noted that the City will be advertising for a new Budget Committee member to fill Councilor Cockrum's vacated position and that there are also three committee members' terms ending in May 2025. Treasurer Hill briefly talked about the PERS actuarial valuation report that the City has received. The report will be sent to the Councilors and posted on the City's web page. The overall takeaway of the report was that the City's employer PERS rates will be increasing in July 2025.
- City Attorney. Attorney Watts talked about the population estimate reports prepared by Portland State University (PSU) and the impact on the City's revenues. He feels the methodology used is flawed. He will be gathering data in an attempt to make a case for PSU to revise the numbers, which he feels are too low. There was continued discussion on PSU's projections. He has also done some research on the railroad right of way concern that was brought up by a citizen. He noted that in the US v. Brandt case the US Supreme Court defined ownership of abandoned railroad right of way reverts back to property owners. There was continued discussion on abandoned railroad right of way reversionary procedures. Attorney Watts also mentioned he is scheduled to represent the City in municipal court.
- City Administrator. Administrator Sweet's report was sent to the Councilors in their packets. He noted that City staff are preparing to work on the Oregon Legislature's Water Caucus survey, which does not require Council action. He mentioned the Public Safety Building Meeting and some survey feedback, which included ideas for improvement. He gave a reminder for the second Public Safety Community Meeting on January 14, which will include information on site planning (structural engineer and geotech data). He has also been working through a case with Attorney Watts regarding some zoning issues.

Visitors. None.

Public Communications - Written & Oral. Mayor Smith read the oral public comment statement on the agenda. There was written correspondence submitted by Deanna Mancill (Turner Weeping Willow/Railroad Right of Way) and Susan Eliot (Planning Commission Applicant Withdrawal). It was also noted that a letter from Stewart Schulz should be placed in the public record.

- Deanna Mancill (2945 Hwy 101 N) gave some history on the Railroad right of way in relation to her property. Based on her research and conversations, she feels that there is some discrepancies. She would like clarification from the Gearhart Planning Department on their involvement in granting right of way property to her neighbors. Councilor Gould thanked her for her patience while the City investigates the issue.

Ordinances/Resolutions.

2nd Read: Ordinance 942 - Section 6.070(8) Preservation & Removal of Trees GZO Text Amendments. Mayor Smith introduced the item and opened the discussion.

- Councilor Cockrum understood that trees in the riparian zone are covered in a different section in the zoning code; however, she was concerned that there was a lack of language addressing a tree removal permit being required in the riparian zone. City Planner Phillips clarified that the zoning code has special sections that are easy to find for wetland protection (tree removal prohibited) and beach and dunes overlay; however, the riparian zone information is embedded in the base zones. He reiterated that there was no specific riparian zone section because the base zones speak to riparian zones. He did indicate that Article 6 of the zoning code prohibits tree removal within 50 feet of streams. He also noted that there is no language specifically addressing tree removal permits for riparian zones because they are prohibited from being removed from that zone area (reference Section 6.7.0, Subsection 5 and Subsection 6 exceptions). Councilor Cockrum referenced a specific example of unsanctioned tree removal in her neighborhood that was not authorized or approved by the City Administrator. She understands the rationale of the tree ordinance being a mechanism for staff awareness of tree removal; however, she does not feel it will stop trees from being removed before staff are aware or without a permit. Administrator Sweet explained that because the new ordinance will require a permit for all tree removal, it will hopefully bring more awareness.
- Councilor Gould does have some major concerns with the tree removal ordinance. She feels that it is great when everyone complies; however, due to limited staff, enforcement may appear selective. She pointed out that there is limited staff for enforcement on weekends and off hours. She also has concerns that specific geographic areas may avoid detection of tree

removal. She feels this is an unfair ordinance that adds additional tasks to staff, which the City cannot afford.

- ON MOTION by Councilor Kloefer, 2nd by Councilor Cockrum to approve Ordinance 942 - Section 6.070(8) Preservation & Removal of Trees GZO Text Amendments with a grammatical correction (*page 4, Section F*), MOTION was approved 3 yeas (Cockrum, Kloefer, Smith) - 2 nays (Devereaux, Gould).

Ordinance 945 - An Ordinance Implementing Cost Recovery Services in the City of Gearhart. Mayor Smith introduced the item. Attorney Watts and Division Chief of Training & Operations Park went over the purpose. Attorney Watts talked about the ordinance and the fee schedule. He indicated that the fees are based on the Oregon State Fire Marshal's Standardized cost schedule; however, over the next few months he would be working with Gearhart firefighters to customize some of the fees. This new schedule would be brought back to the Council for review. The purpose of the ordinance is for cost recovery for extraterritorial responses or response time that is given to non-Gearhart fire protection service residents. Attorney Watts mentioned that there are often outside facilities that start treating fire department response staff as their employees. He indicated that this type of repetitive usage may be eligible for cost recovery. He also referenced ambulance emergency services often treating fire department response staff as employees, which again could potentially be a cost recovery situation. Division Chief of Training & Operations Park again reiterated this ordinance is designed for cost recovery, not a money making source. The ordinance allows the Gearhart fire department to charge a cost recovery fee for specific responses (e.g., Saddle Mountain rescue). The cost recovery is a benefit to assist in easing the tax burden on the taxpayers. Attorney Watts mentioned that the ordinance is written with flexibility. He said that the Fire Chief was specifically granted administrative authority in the ordinance. Councilor Gould confirmed that the intent of the ordinance was not to impose punishment, but rather to implement a fee for services. Councilor Kloefer inquired on who would be doing the billing services. Division Chief of Training & Operations Park responded that it would be a cost recovery third-party billing company. Division Chief of Training & Operations Park indicated the billing system should not create more workload for staff and a lot of the work is already being done with other required reports. Division Chief of Training & Operations Park also indicated that other fire departments would likely not be invoiced because of mutual aid agreements that are already in place. Councilor Kloefer also requested clarification on the ordinance indicating that the Council had not evaluated the fee schedule because no fees were specifically attached. Attorney Watts explained that the Council would adopt the ordinance using the State Fire Marshal's Oregon Fire Service Mobilization Plan fees, which would eventually be updated to a more specific Gearhart rate schedule that would be again reviewed by the Council. There was additional

discussion on Appendix A and the fee schedule. Councilor Cockrum requested clarification on the relationship between the City of Gearhart's fire department and the Gearhart Rural Fire Protection District (GRFPD). Attorney Watts explained that there is the City fire department and the GRFPD, which makes up a fire protection district. It was suggested that the ordinance reference both department and district to avoid confusion with the different entities. Mayor Smith requested a change on page 1 ("*will examine*").

- ON MOTION by Councilor Cockrum, 2nd by Mayor Smith to approve Ordinance 945 - An Ordinance Implementing Cost Recovery Services in the City of Gearhart as amended (*page 1, including of terminology "department"; word changes to "will examine"*), MOTION was approved 5 yeas (Cockrum, Devereaux, Gould, Kloefer, Smith) - 0 nays.

Old Business. None.

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

Discussion - Planning Commission Appointment. Mayor Smith introduced the item and recommended the appointment of Emerson Fisher as the next Planning Commissioner.

- By consensus, the appointment of Emerson Fisher was approved 5 yeas (Cockrum, Devereaux, Gould, Kloefer, Smith) - 0 nays.

Council Rules. Mayor Smith introduced the item. He explained that there has been a request by Councilor Gould to move the Council Rules to a worksession. There was discussion on a potential worksession date.

Council President (*not on agenda, recommended by Attorney Watts*). Mayor Smith explained that it should be done at the January meeting; however, Attorney Watts recommended at least a pro tem Council President be selected.

- By consensus, Councilor Devereaux was approved 5 yeas (Cockrum, Devereaux, Gould, Kloefer, Smith) - 0 nays.

Council Concerns.

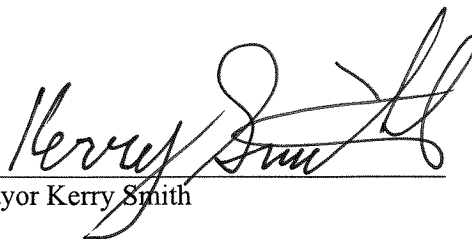
- Councilor Cockrum reported no concerns.
- Councilor Kloefer requested clarification on whether or not Deanna Mancill's concerns were City Council issues. Attorney Watts clarified that it depends on the situation and specific issue. He indicated that the City has been investigating concerns brought forward; however, various aspects

have to be considered before the City should become involved (e.g., property owner disagreements; County versus City roles; assessing legal pathway).

- Councilor Devereaux reported no concerns.
- Councilor Gould reported no concerns
- Mayor Smith gave a reminder that the January City Council meeting has been scheduled for Wednesday, January 8, 2025 because the first Wednesday of the year is a holiday (New Year's Day).

Adjournment.

- ON MOTION by Councilor Kloepfer, 2nd by Councilor Devereaux to adjourn the meeting, MOTION was approved 5 yeas (Cockrum, Devereaux, Gould, Kloepfer, Smith) - 0 nays. Mayor Smith adjourned the regular Council meeting at 8:43 pm.



Mayor Kerry Smith



Chad Sweet, City Administrator