

CITY OF GEARHART
Regular Meeting of the City Council
Wednesday, November 1, 2023
7:00 pm On-site and Virtual/Telephonic

A regular meeting of the Gearhart City Council was held Wednesday, November 1, 2023. Council members, City staff, and the public were able to attend on-site, virtually, or by dialing in on a telephone.

Present were Mayor Kerry Smith, Councilor Reita Fackerell, Councilor Dana Gould, Councilor Preston Devereaux, Councilor Sharon Kloepfer, City Administrator Chad Sweet, City Attorney Peter Watts, Fire Chief Josh Como, Executive Assistant Krysti Ficker, and City Treasurer Justine Hill. A quorum of the Council was present.

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 Gould, 2nd by Councilor Fackerell to approve the minutes as amended of the October 4, 2023 regular meeting of the City Council, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepfer, Smith) - 0 nays.

There were no questions on the Planning Commission report in the Councilors' packets; however, Councilor Kloepfer was interested in hearing why the pickleball application was pulled from the Planning Commission meeting. Administrator Sweet explained it was withdrawn so the applicant could re-submit with changes versus risking denial and a year-long wait to re-submit.

Mayor's Report. Mayor Smith attended the worksession, with one of the topics being elk.

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

- Councilor Devereaux also attended the worksession and wanted to stress that the elk issue to the north is not a City of Gearhart issue. The area is in unincorporated Clatsop County and not within the boundaries of Gearhart.
- Councilor Fackerell gave a shout-out to Councilor Kloepfer for discussing the elk issue. She was surprised and happy at the turnout of those who are interested and motivated in getting facts. She was unable to attend the last regional housing meeting but deferred inquiries to Administrator Sweet. She talked with Administrator Sweet regarding next steps for the bench committee. The bench committee would like to do a formal presentation at a Council meeting.

- Councilor Gould gave a shout-out to Justine and the Fire Department for participating in the spirit of Halloween. She also congratulated the Police Chief on his completion of a week of DPSST management classes and Officer Mares for getting into the DPSST academy. Councilor Gould attended the League of Oregon Cities (LOC) conference, which she intends to share information. She also joined the Women's Caucus group and encouraged Councilor Kloepfer and Councilor Fackerell to also join. She also mentioned property tax cap measures; revenues increasing slower than expenditures; hearing about urban growth boundary expansions in other areas; listening to local citizens on the elk; and is planning to attend the LOC Small Cities meeting in Rockaway Beach.
- Councilor Kloepfer participated in the Great Oregon ShakeOut drill as an opportunity to practice what to do in case of an earthquake. She went to the closest assembly area. She only saw three other people. Councilor Kloepfer also feels that the elk situation is a City of Gearhart matter. She feels that the elk killed are part of the local elk population and there is a large citizen concern. She is not exactly sure what can be done about the issue; however, she wants people to think about ideas and continue to communicate.

City Officer Reports.

- Chief of Police. Police Chief Gregory was unable to attend the meeting; however, the department's October data report was provided.
- Fire Chief. Fire Chief Como went over his October data report, including a call breakdown and mutual aid. He indicated there will be financial information coming to the Council due to the testing failure of two fire vehicles that will need to be repaired. He also mentioned the current Division Chief vacancy, which is being handled by GMP. Councilor Gould asked about a projected hiring timeline and Fire Chief Como indicated he wanted to keep it open until filled. She also asked about the Get Ready signs that she requested (Green/Red) for local residents to have in order to notify emergency teams if they need assistance. Fire Chief Como said that they are currently at the printer ready to be picked up.
- City Treasurer. Financial reports were submitted in the Councilors' packets. Treasurer Hill mentioned revenues have continued to come in steady; a dividend payment from SAIF (workers' compensation carrier); strong interest earnings; marijuana and transient room tax revenues being comparative to last year; two conflagration/mobilization reimbursements; a monthly surge in the building department; insurance retro premiums for newly hired police; new police office equipment; and fire purchase service expenses for the new Division Chief recruitment. She also explained that the City will be sending out a new business license application. Treasurer Hill reminded everyone that the City water meters are manually read each month and that City Hall appreciates a call if there appears to be a consumption usage issue.

- City Attorney. Attorney Watts mentioned he does have historical knowledge of elk in Gearhart and is able to go over any regulatory issues. He briefly discussed the Oregon Court of Appeals issuing an opinion effectively ending recreational immunity for improved trails (City of Newport). Public landowners are no longer protected from lawsuits if the principal purpose of the person walking the trail was not to recreate. Attorney Watts feels that there will probably be a greater need for signage on trails defining their usage as recreational. He referenced the Seaside water agreement on the agenda and felt it was a positive step in meeting the obligation of showing a good faith effort of trying to find alternative water sources for Gearhart, which is a contractual requirement of the City's Warrenton water agreement. Attorney Watts again mentioned the elk in Gearhart. He claims that the Governor is the one that owns the elk. He suggested that it is easier to regulate human behavior by implementing safety regulations to help manage wildlife (e.g., feeding ordinance). He mentioned elk harassment; Oregon Solutions; uncertainty on the "right size" of the herd; and advocacy. He said that the elk are a State issue. Councilor Gould requested an update on the feasibility of implementing sign regulations in Gearhart by December or January. Attorney Watts verified there are ways to legally implement sign restrictions without violating individual rights. Councilor Gould suggested following the State regulations on signs. Attorney Watts said time, place, and manner will be considered.
- City Administrator. Administrator Sweet's report was sent to the Councilors in their packets. He briefly talked about a test program that public works is doing with AMI meters to see if efficiencies can be created in the water department; discussed exploring signage design options for a consistent look throughout Gearhart; and a receiving a \$35,000 grant award for a generator at the water tower. Councilor Kloepfer inquired about a construction project on Ocean that may be having some issues. Administrator Sweet clarified that there was some soil sloughing, but it has been resolved. Councilor Fackerell asked about the ODOT sidewalk grant project, deadline, and possibility of an extension. Administrator Sweet explained that there have been issues securing a concrete contractor and that the current estimates of the project exceeded the original scope. It was mentioned that the price of concrete has doubled and that maybe the scope could be reduced. Mayor Smith requested scheduling a worksession in early December to discuss the mandatory reporting training for elected officials; as well as, discussion on signage.

Visitors. Alysia Dunlap, Pacificorp gave a presentation on the Pacific Power Blue Sky voluntary renewable program. She appreciated the opportunity to speak. She explained that the City no longer qualified for the EPA Green Power Community designation because of changes to the requirements. She said to reinstate the City's designation, the City must enroll in the Pacific Power Blue Sky program at the 50% level. The designation shows a City's commitment to environmental stewardship. She briefly talked about types of green power sources; purchasing renewable energy; inability to purchase hydro power directly from Bonneville Dam; the ability to opt in/out of the program at any time; carbon free energy goals; and ability to access

resources outside of Oregon. There was some continued discussion on habitat impacts; obstacles for solar power in Oregon; transmitting power; and the potential financial impacts of choosing to use a more expensive level of service. Treasurer Hill indicated that there would likely be no impact this fiscal year due to the amount of the increase; however, in the future, if the City Council would like to continue at a higher level, it may come down to prioritizing the allocation of limited resources.

- ON MOTION by Councilor Kloepfer, 2nd by Councilor Fackerell to approve the City to move to the Pacific Power's Blue Sky Visionary Partner level, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepfer, Smith) - 0 nays.

Public Communications - Written & Oral. Mayor Smith read the oral public comment statement on the agenda. There was written correspondence submitted by: Jason Mack, Lewis & Clark Timberlands (Pre-Commercial Thinning). Councilor Fackerell inquired where the activity was taking place and Councilor Kloepfer was interested in getting more information on the project. Administrator Sweet said that no City of Gearhart property was involved, the area is located up by Thompson Falls, and that additional follow-up information could be obtained by contacting Lewis & Clark Timberlands.

- Liza Gadsby (248 Ocean Ave) wanted to continue the discussion on elk. She thanked whoever distributed the Cannon Beach Gazette at the worksession with the articles written by Bob Atiyeh. She agrees the elk are gone and appreciated Councilor Kloepfer's reference to a "slaughter." She feels that the elk are dead, but not the issues. She feels the Elk Collaborative cooperative program needs to have another meeting. She would like to know where the \$600,000 allocation for the program went. She thinks the City should think about whether or not it considers itself elk friendly and what policies it plans to follow. She explained that the elk cannot be stopped from coming west of highway 101. She agrees elk are dangerous; however, she argued lots of things are (e.g, dogs, people). She suggests educational signage. She also had an inquiry about City liability and elk. Attorney Watts clarified he had no recollection of any legal incident involving the City regarding humans and elk. He also stressed that people cannot discharge a firearm in City limits and that the incidents happened in unincorporated Clatsop County. He said it would be illegal to kill an elk within the City of Gearhart.
- Sara Vickerman-Gage (5040 Fairway) has been watching the elk for over 30 years and it is one of her greatest pleasures. She has seen enormous herds walk by and baby calves born near their house. She and her husband accidentally found out in June about what was happening on the Weston property and spent the next few months investigating. They talked with Paul Atwood (ODFW) and asked him many of the same questions the Council asked at the worksession. She wanted to clarify that she did not feel that Atwood was consistent with information he shared. She feels her key message in response to killing the elk on that property is that it was a disproportionate response to the level of damage that occurred. Atwood was very adamant with them that this was not a culling, which is technically accurate. She talked about donating meat to charity; lack of response from ODFW

regarding public records requests; and information circulated that the City of Gearhart is considering a culling operation. Mayor Smith explained that culling was a minor point in the framework of the Elk Collaborative agreement that the City signed; however, other alternative options were also listed (e.g. corridors, fencing). The incidents that happened on private property by private individuals were part of the ODFW damage tag program, which the City of Gearhart has no control over. Attorney Watts also clarified that there are a variety of requirements for the culling operations process. When the Collaborative agreement was developed, the City of Gearhart had to follow the science and accept the totality of all options from a variety of stakeholders. Councilor Fackerell volunteers at the food bank and said they get a variety of different wild meats donated; however, she has not seen elk.

- Jeff Gage (5040 Fairway) likes the elk. He wanted to talk about some misconceptions from ODFW's information. He feels ODFW is trying to minimize the incidents by trying to say there are three elk herds, around 250 elk. ODFW claims to be using National Park Services GPS collar data; however, based on the actual data he has reviewed for 2019-2020, it shows one Gearhart herd, not three. He stated that based on data there has been a 90% reduction in the Gearhart herd over three years. He distributed and went over the elk GPS locations for all the collared elk. In his review of the data, ODFW's information on the elk herd population is not accurate and there is one herd from Surf Pines down to Seaside and that is why Gearhart has seen fewer elk.
- Dena Goodrich (87265 Todd Hollow Rd) lives just outside the City of Gearhart. The elk come on their property and they are just behind the Weston property. She does not feel that any ethical hunter would just shoot elk laying out on the property. She also feels it is a slaughter. She does not understand why this is allowed. She would like to know who to contact. Councilor Devereaux reiterated that the elk belong to us and ultimately the Governor. He mentioned different types of hunting tags and stressed that individuals outside the City limits in unincorporated areas are eligible for hunting (including the west side of highway 101). Goodrich referenced the declining number of female elk she has recently seen on her property and Councilor Kloepfer confirmed that the damage control tag program was only for female elk.
- Terry Goodrich (87265 Todd Hollow Rd) has lived in his current residence for five years and has watched the herd pass by and dwindle. He thinks that crazy things can often be said (reference to Mt St Helens and length of time before fish return). He also feels the killing has been a slaughter and is frustrated that one person is responsible for it when the property is not farmland.
- Deb Atiyeh (PO Box 1426, Cannon Beach) created the elk flyer for Cannon Beach. Their City denied culling. She values wildlife and feels it is magical. Tourists love elk and there have been no problems in Cannon Beach with elk. She feels the elk issue is an Oregonian issue. She wants to provide the voice for the elk since they do not have one. She feels the 77 elk were slaughtered. She also talked about the Elk Collaborative, lack of public comment, inaccuracies in information provided by ODFW, transparency in the actual property damage, awareness on social media, and accountability. She would

like to see all hunting stopped on the property; Paul Atwood fired and held accountable; and community input.

Ordinances/Resolutions.

Resolution 991 - A Resolution Implementing Water Conservation Pricing, Adjusting Rates, and Repealing Resolution 990. Mayor Smith opened the discussion and Administrator Sweet went over the staff report. Councilor Devereaux requested clarification on an example of using less than 10 consumption units during a billing cycle. Administrator Sweet clarified that with the new block pricing method, under 10 consumption units would see no changes to the current base rate amount (no additional block pricing fee).

- ON MOTION by Councilor Devereaux, 2nd by Councilor Gould to approve Resolution 991 to add water conservation block pricing to the recent water rate increase, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepfer, Smith) - 0 nays.

Old Business. None.

New Business.

Seaside Water Mutual Organization Understanding (MOU). Mayor Smith opened the discussion and invited the public to comment on the new business item. Administrator Sweet went over the staff report. He clarified that one notable change was reciprocation in the event of a water emergency. He also mentioned that both the Seaside and Gearhart Public Works Directors met to ensure proper operation of the valve and connection history.

- Councilor Kloepfer requested clarification on the ability to say no to providing water and who makes that decision. Administrator Sweet confirmed that based on the agreement, Gearhart could say no and that Public Works Director McFadden would make that decision for Gearhart. There was continued discussion on operation of the valves; infrastructure; redundancy; looking at alternative water options; water rights; and reciprocation. Councilor Kloepfer asked specifically where in the document is Gearhart allowed to say no. Attorney Watts and Administrator Sweet both confirmed it would be in Section 1.1 Available Water. Each City respectively would be allowed to determine the amount and availability of water.
- ON MOTION by Councilor Gould, 2nd by Councilor Devereaux to approve entering into a water MOU with the City of Seaside, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepfer, Smith) - 0 nays.

Discussion - City of Gearhart's Strategic Blueprint. Mayor Smith opened the discussion and invited the public to comment on the new business item. Administrator Sweet went over the staff report. He

talked about the new format; how the list was created and prioritized; and wanted input on if there was support for the new format and items listed.

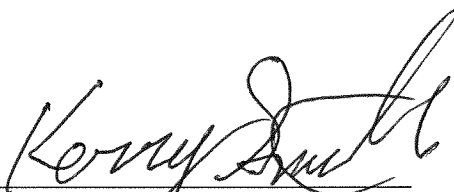
- There was support for the new format. Councilor Kloepfer suggested a potential revision under the Principles section on the third line to include town halls and public hearings. There was continued discussion on perception of communication. Councilor Kloepfer also wanted clarification on the Focus Areas section, Community Safety, first line regarding mitigating hazards, which Administrator Sweet provided. Councilor Devereaux felt strongly that the Council cannot explore urban growth boundary expansions without satisfactory water availability in Gearhart. There was continued discussion on buildable lands inventory, housing needs analysis, water moratorium, and an example of avoiding a Seaside sewer requirement. Councilor Devereaux would like to see the order of the Priorities changed in the Focus Areas section under Infrastructure (prioritize water rights over urban growth boundary expansion). Councilor Gould felt that the goals format was not intended to be chronological, but a more consecutive approach. She felt this discussion was to agree on the Councilors' goals. There was consensus that water rights could be moved above urban growth boundary expansion.

Council Concerns.

- Councilor Devereaux reported no concerns.
- Councilor Fackerell reported no concerns. She thanked everyone for their comments on the elk issue and understands their frustrations.
- Councilor Kloepfer reported no concerns.
- Councilor Gould wanted to address several questions brought up tonight. She wanted everyone to know the jurisdiction that would be the contact for the elk would be the County. The City of Gearhart has limitations on what they can do regarding the issue. She also wanted to clarify that she was never interviewed or provided a statement to the Daily Astorian so she cannot comment on anything they wrote. Councilor Gould spoke about the comment on not supporting elk on the west side of highway 101. She stressed she is an adamant animal lover. She is concerned over the safety of all wildlife, especially a 1,200 lb elk crossing traffic. She has been viewing elk photos and many have debris in their antlers, which is not good for them. She referenced a personal example of a dangerous situation she experienced encountering elk while walking. She is not saying that elk should be killed in Gearhart. She also gave a reminder that the City cannot tell other jurisdictions what to do. She wants a proactive approach to dealing with elk and has serious safety concerns with them in the City because they are not pets.
- Mayor Smith reported no concerns.

Mayor Smith requested adjournment.

- ON MOTION by Councilor Fackerell, 2nd by Councilor Devereaux to adjourn the meeting, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepfer, Smith) - 0 nays. Mayor Smith adjourned the regular Council meeting at 9:05 pm.



Mayor Kerry Smith



Chad Sweet, City Administrator