

CITY OF GEARHART
Regular Meeting of the City Council
Wednesday, October 2, 2024
7:00 pm On-site and Virtual/Telephonic

A regular meeting of the Gearhart City Council was held Wednesday, October 2, 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 Kloepper, City Administrator Chad Sweet, City Attorney Peter Watts, City Planner Garrett Phillips, Police Chief Josh Gregory, Fire Chief Josh Como, Building/Planning/Court Assistant Angoleana Torres, 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 amended (*page 2*) minutes of the September 4, 2024 public hearing and regular meeting of the City Council, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepper, Smith) - 0 nays.
- ON MOTION by Councilor Gould, 2nd by Councilor Kloepper to approve the minutes of the September 4, 2024 executive session of the City Council, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepper, Smith) - 0 nays.
- ON MOTION by Councilor Gould, 2nd by Councilor Fackerell to approve the amended (*page 4*) minutes of the September 17, 2024 joint worksession of the Planning Commission and City Council, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloepper, Smith) - 0 nays.

Mayor Smith requested that the Mayor's Report be moved to the end of the meeting. He requested by consensus to change the agenda to allow Bob Morey the ability to provide a brief presentation on his offer during the Visitor's section, which was approved by consensus (Devereaux, Fackerell, Gould, Kloepper, Smith). Mayor Smith requested that the Liquor License Application Review agenda item be moved to the Visitor's section, which was approved by consensus (Devereaux, Fackerell, Gould, Kloepper, Smith).

There were no Planning Commission minutes due to the September meeting being canceled.

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

- Councilor Devereaux noted he was unable to attend the last Klash Group meeting.
- Councilor Fackerell had nothing new to report.
- Councilor Kloefer attended the Clatsop County Goals 16, 17, and 18 Public meeting. She also volunteered at the Clatsop County “Get Ready” emergency preparedness event held at Camp Rilea. Mayor Smith asked a clarifying question on the purpose of the revisions to the Clatsop County Goals, to which Councilor Kloefer responded that she believed the revisions were to refresh and realign with State goals.
- Councilor Gould heard from a lot of citizens on such topics as: complaints on the contractor work hours limitations, the proposed tree ordinance, and the public safety building location. She spoke with the Fire Chief from Pasco, Washington regarding a project that they did and continued to try and reach someone with the fire department in Richland, Washington. She attended the joint worksession regarding the FEMA BiOp information and continues to have concerns over the impacts. Councilor Gould also plans on attending the League of Oregon Cities (LOC) conference in Bend, which has a dedicated session on the FEMA BiOp topic.

City Officer Reports.

- Chief of Police. Chief Gregory mentioned the police statistical report was not yet available; however, he verbally went over data. He indicated his department was doing well and his officers are continuing to be very proactive.
- Fire Chief. Fire Chief Como went over the department’s September data report, including a call breakdown and mutual aid.
- City Treasurer. Financial reports were submitted in the Councilors’ packets. Treasurer Hill mentioned September was a relatively slow revenue month. She noted revenues in Fines & Forfeitures, which represents the City’s portion for processing municipal court; and, Fund 40 building department, which gained momentum with construction related permits. In the general fund noteworthy expenditures included: a payment to the City’s auditors; a payment for the City’s annual short-term rental software; annual payments from the police department’s budget for service provided by Lexipol and CMI software; fire conflagration personnel costs; and a quarterly payment to Gearhart Volunteer Firefighters Association for volunteer gas & clothing reimbursement. In Fund 30, the Water Operating fund, there were expenses for wastewater disposal; for continued support services for our Water Rights Permit Compliance requirements with the State of Oregon; and for the City’s water purchase from Warrenton. There was also a payment in Fund 71 for the City’s groundwater modeling service project. Treasurer Hill also noted that the City had used emergency procurement for two unforeseen circumstances. The City’s external generator malfunctioned, overheated, and stopped working. The incident required

an emergency evaluation from Cummins, the manufacturer. The second incident was an issue with a chlorine storage tank that has developed a slow leak. A replacement emergency tank had to be immediately ordered (TMG Services).

- City Attorney. Attorney Watts mentioned continued work with City Planner Phillips and 3J on the Buildable Lands Inventory project. He feels 3J is being cooperative and that the City's building/planning department is being responsive with data requests. He noted that the Oregon Government Ethics Commission (OGE) has implemented new administrative rules that will require additional training for all elected officials (e.g., Planning Commission, City Council, Budget Committee). He briefly went over changes to the Oregon Public Meeting Law (e.g., requirements of holding public meetings; authorizes specific, limited reasons for the public body to meet in closed executive session; civil penalties). He again clarified discussions classified as serial meetings. He indicated public officials can share research, but cannot advocate for a specific outcome without being in a public meeting. Attorney Watts also discussed the uncertainty of impacts that may be created by the new FEMA BiOp rules. There will be many more discussions. He also pointed out that entities still do not have maps and guidelines for data that is supposed to be implemented by December. He will be looking at creative ways to meet the deadline requirements. Councilor Devereaux expressed concerns over receiving information from FEMA due to the situations going on in the southeastern United States. Councilor Gould expressed concern for homeowners that will now be impacted by the FEMA BiOp rules. She is concerned over the impacts on insurance rates, property values, and restrictions that do not allow fill to be brought in to assist in getting out of the flood zone areas. Attorney Watts referenced a moratorium on property owners ability to get Letters of Map Revision (LOMR) and Conditional Letters of Map Revision (CLOMRs) during the FEMA BiOp rules implementation process.
- City Administrator. Administrator Sweet's report was sent to the Councilors in their packets. Some of his highlights were: continued work with the Water Resource Department; a main water line break caused by a utility company; completion of a required lead water line survey; notice of a slight delay in posting of October's City Council highlights and video recording; announcement of the emergency cache day on October 27th; and Garrett Phillips being available online at the meeting.

Public Communications - Written & Oral. Mayor Smith read the oral public comment statement on the agenda. There was written correspondence submitted by Tina Kotek (FEMA NFIP, BiOp, PICM); Justin Gibb, ASA Administrator (Ambulance Service Concerns); Deanna Mancill (Seaside Airport); Randall Henderson, Seaside Airport Advisory Committee (Seaside Airport); Deanna Mancill (Tree Ordinance); Bob Morey, SCOFI Gearhart LLC (Potential Donation of Land).

- Shannon Smith (774 Pacific Way) requested a video created by Paul Buffington of Neacoxie Creek overflight be played. Her emphasis was to demonstrate the classic treasures of Gearhart (estuary, beach, creek). She also wants the community to be mindful of changes coming. She indicated that in the last ten years the plots along the Neacoxie have been redefined from “unbuildable” to “undeveloped.” She thinks that Gearhart should do an inventory of trees (e.g., Bellingham, WA). She will be circulating a petition to add voice for people to take action.
- Deanna Mancill (2945 Hwy 101 N) wanted to expand on the letter that was submitted as correspondence in regards to the Seaside Airport. She specifically wanted to address the zoning text amendment issue related to any Seaside Airport’s expansions in the RA zone. She referenced minutes from the Seaside Airport committee; approved zoning and allowable uses; encroachments; grandfathered areas; FAA executive order; airport development; incident with the Port of Astoria; and potential airport safety issues. She felt she needed to make the Council aware of some potential action items with the Seaside Airport that may have negative impacts on Gearhart residents.
- Penny Sabol (1149 N Cottage) read Mr. Morey’s proposal to give the City property for a new public safety building. She wondered if anyone had talked with residents in that area to see if they may have any concern with placing the facility there.

Visitors.

Liquor License Application Review - Senders’ Wedding. Mayor Smith introduced the topic. Lisa Senders (101 N Ocean) explained they have submitted a special event application for a City of Gearhart Liquor License Special Event, which is for a wedding and reception on July 26, 2025 at Lesley Miller Dune Meadows Park. She requested a change in Condition of Use #5, event insurance, to be modified to aggregate instead of per claim. She explained that she had talked with the City’s insurance provider (Knutsen Insurance) and that it is difficult to get that amount per claim for this type of event. Attorney Watts felt that with Council’s approval, aggregate would be acceptable and that he would initial the change in language. Councilor Gould requested that if approved, law enforcement was aware and fully staffed during the event. Mayor Smith requested clarification on how many pages were being reviewed for the event and Administrator Sweet indicated there were three pages (staff report, application, addendum). Councilor Kloepper asked for clarification on the responsible party for monitoring trash and/or discarded alcohol cups. The Senders family responded that they are responsible, want a family focused event, and have procedures in place to ensure monitoring and clean-up.

- By consensus, the Special Event Liquor License Application for July 26, 2025 was approved with an amendment to the liability insurance requirement (Devereaux, Fackerell, Gould, Klopfer, Smith).

Potential Donation of Land to Gearhart Public Safety Building and Public Works Facility. Mayor Smith introduced the topic and invited Bob Morey to present SCOFI Gearhart LLC's offer. Bob Morey (271 D Street) indicated he did not have a presentation prepared but was happy to share information. He talked about the proposal of potential donation of land to Gearhart for the Public Safety Building and Public Works Facility (*correspondence dated September 30, 2024*) and some of the benefits. He mentioned the potential rezoning of the property to R1, which will give them more finalized long-term plans on the property's use. Councilor Fackerell thinks the property looks very nice; however, she does have some concerns. She feels there have been a series of changes by Bob Morey in terms of the property's usage and has concerns that he will change his mind again. Bob Morey had a different recollection of events than Councilor Fackerell and went over his perception of events in terms of any potential development of the school property. He feels there are explainable reasons for development changes. Attorney Watts reminded the Council that the Planning Commission is reviewing an application currently on the SCOFI property, which the City Council would review if appealed. Councilor Klopfer thanked Bob Morey for his offer and hoped he was not in a hurry for any finalized location decisions. Bob Morey indicated the City would be able to take their time. Administrator Sweet indicated that due to personal family reasons, the Ordway property will likely no longer be a viable location. Councilor Klopfer was interested in who would compare locations to determine feasibility (e.g., Klash Group, City Planner Phillips). Administrator Sweet said that information and/or options would probably be presented through a worksession. Councilor Gould requested clarification on any need to adjust tax lots to the area and wanted to know if there were any conditions put on the donation. Bob Morey explained that a portion of the SCOFI property would need to be rezoned to R-1 (approximately 5.37 acres), the donated property would be owned by the City, and that they would like to see an attractive landscape entry coming into the house. Attorney Watts mentioned an appraiser would probably be needed to decide any property value and any location decisions will need to be palatable to the voters; however, geotechnical site work would be necessary for location decision making. Councilor Gould also wanted to know if he had talked with any of the neighbors, which Bob Morey indicated the donation proposal just came to fruition a few days ago so they have not had time to talk with neighbors. Councilor Gould brought up potential areas of future discussion (GRFD commitment, definition of low-volume usage, BiOp impacts, number/type of facilities, political candidacy).

Ordinances/Resolutions.

Ordinance 942 - Section 6.070(8) Preservation & Removal of Trees GZO Text Amendments. Mayor Smith opened the topic. City Planner Phillips offered some brief remarks with follow-up from Attorney Watts. City Planner Phillips provided some background to Ordinance 942. He explained that the Planning Commission reviewed and provided some recommendations to the Ordinance, which was submitted to the City Council. The City Council also requested some additional revisions to the Ordinance. City Planner Phillips gave a reminder that the City of Gearhart already has tree protections in wetlands areas that the Ordinance will not change. He mentioned that Ordinance 942 will protect more trees throughout the City by implementing a tree permit process. It also includes additional protections for trees 55 inches in diameter. The Ordinance introduces language for Heritage trees (unique historic or aesthetic value). Ordinance 942 does allow provision to make it easier to remove trees in hazard situations. Attorney Watts mentioned another revision that evolved from public feedback (using State of Oregon noxious weeds species list). Councilor Kloepper had a few comments. After some further investigation, she would recommend revisions to the language regarding the replacement tree size. She agrees with a local professional's input that evergreen/conifer replacement would be five (5) foot and deciduous trees replacement would be 10 gallon size. Councilor Kloepper also recommended revisions under section C Applicability (invasive/noxious species language, moving to exceptions). Councilor Gould expressed concern over not having previously problematic tree species listed that are not on the State list (septic location related). Attorney Watts clarified that these trees could be specifically listed and defined. Councilor Kloepper also requested the source for the point value system in the Heritage Tree Designation section, which City Planner Phillips said was from the City of West Linn. She requested follow-up clarification specifically on the location factor point values and the rationale behind the assessment of points. Councilor Devereaux takes exception to the root zone. He feels tree roots in the local area grow out more than deep. Councilor Gould recommended a worksession to finalize some of the language.

- By consensus, Ordinance 942 - Section 6.070(8) Preservation & Removal of Trees GZO Text Amendments was moved to a worksession (Devereaux, Fackerell, Gould, Kloepper, Smith).

Old Business. None.

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

Domestic Violence Awareness Month Proclamation. Mayor Smith read the Proclamation provided by Clatsop County Domestic Violence Council.

- By consensus, the Domestic Violence Awareness Month Proclamation was approved (Devereaux, Fackerell, Gould, Kloefer, Smith) .

Architecture & Engineering RFP Selection Committee Final Report. Mayor Smith introduced the topic and invited Robert Lee, Member of the Architecture & Engineering RFP Selection Committee to talk about the selection process. Robert Lee went over the process, the scoring, the interview selection, and the final selection recommendation (FFA Architecture and Interiors). He thanked Jessie Steiger from the Klash Group for her guidance through the process. Councilor Kloefer requested clarification on what was on the scoring system. Robert Lee indicated the evaluation of items such as: letter of intent, relevant project experience, key personnel and subcontractors, approach to site evaluation, and community development/engagement.

RFP/Request for Funds - Architecture & Engineering Services. Administrator Sweet went over the staff report. Jessie Steiger, Klash Group, gave a schedule update on the project. She went over the project timeline, council involvement, and allowed questions/answers. She went over Council involvement (listening and learning; input and feedback). She suggested the Council set some guiding principles that could provide guidance and criteria for decisions made around the public safety building. Councilor Gould clarified the recommendation to set some parameters and/or a mission statement. It was recommended that this type of activity could be done at a worksession.

- ON MOTION by Councilor Devereaux, 2nd by Councilor Fackerell to award the Architecture & Engineering project to FFA Architecture & Interiors and approve the funds request up to \$145,000 to cover Phase I architecture costs, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloefer, Smith) - 0 nays.

Request for Funds - Public Safety Building Geotech Studies. Mayor Smith introduced the item and Administrator Sweet went over the staff report. Councilor Gould requested clarification on the geotech studies on specific locations since the Ordway site is no longer available. Attorney Watts feels public notice would be required due to the decision making of selecting another specific geotech evaluation site. It was agreed that another meeting and/or worksession would be scheduled.

- ON MOTION by Councilor Gould, 2nd by Councilor Devereaux to allocate up to \$40,000 for public safety building geotech studies, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloefer, Smith) - 0 nays.

FEMA Pre-Implementation Compliance Measure (PICM) Direction. Mayor Smith introduced the topic. Attorney Watts recommended the Council look at approving the Hybrid Model Ordinance and Habitat Assessment option. He feels that once there is more data released, the options can be revisited and modified. He feels the hybrid option meets the clear and objective criteria; as well as provides some flexibility to property owners/staff.

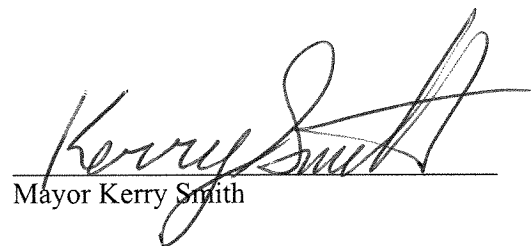
- ON MOTION by Mayor Smith, 2nd by Councilor Devereaux to direct the Planning Commission to pursue the Hybrid Model Ordinance and Habitat Assessment option (#4 on staff report), MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloefer, Smith) - 0 nays.

Council Concerns.

- Mayor Smith had no concerns.
- Councilor Devereaux had no concerns.
- Councilor Fackerell had no concerns.
- Councilor Kloefer clarified that in a public letter submitted it was phrased she demanded something of a citizen, which she clarified was not accurate. She stated that she has never demanded anything of any citizen.
- Councilor Gould had no concerns.

Adjournment.

- ON MOTION by Councilor Fackerell, 2nd by Councilor Gould to adjourn the meeting, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Kloefer, Smith) - 0 nays. Mayor Smith adjourned the regular Council meeting at 9:12 pm.



Mayor Kerry Smith



Chad Sweet, City Administrator