

CITY OF GEARHART
Public Hearing and Regular Meeting of the City Council
Wednesday, October 1, 2025
5:00 pm On-site and Virtual/Telephonic

A public hearing and a regular meeting of the Gearhart City Council was held Wednesday, October 1, 2025. 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 Paulina Cockrum, Councilor Preston Devereaux, Councilor Sharon Kloepper, City Administrator Chad Sweet, Interim City Attorney Chad Jacobs, Fire Chief Josh Como, Police Chief Josh Gregory, City Planner Garrett Phillips, Executive Assistant Krysti Ficker, and City Treasurer Justine Hill. Councilor Dana Gould was absent. A quorum of the Council was present.

At 5:00 pm Mayor Smith went over the hearing's disclosure statement and opened the public hearing for a street vacation request for a portion of the Hemlock right-of-way (ROW). There were no conflicts of interest, ex-parte contact, or personal bias declared by any member of the Council. Councilor Kloepper and Councilor Devereaux noted they visited the ROW site. Councilor Cockrum noted she ran into the applicant in the community. There were no challenges to the City Council's ability to make an impartial decision.

City Planner Phillips reported that there were no updates in terms of the staff report or the decision criteria except a revision to the compensation estimate. He indicated that the new compensation estimate took into consideration the area that was within the locally significant wetlands boundary as being worth zero dollars and areas outside the wetlands boundary valued using the calculation in the Gearhart Zoning Ordinance. He mentioned that Interim City Attorney Jacobs had indicated that based on City past practice, there was an opportunity to modify the compensation amount based on locally significant factors. He reminded the Council that it was at their discretion whether or not to approve the ROW vacation and that if it was approved, the applicant would be required to follow a series of steps before it would be finalized.

Mayor Smith requested clarification on page 10 of the ROW vacation staff report, which read: "Staff do not understand the applicant's reason for vacating ROW south of that area most adjacent to Pacific Way." City Planner Phillips clarified the geographic area referenced (50 ft south of Pacific Way). City Planner Phillips indicated that it was a requirement in the ROW vacation process that the applicant's reason be provided for the ROW vacation, and that during the Planning Commission process phase, the applicant did not adequately answer the requirement, which had been noted in the staff report for Council follow-up. He also explained that the sentence should have been revised in the staff report because in the Council's public

hearing the applicant did identify reasons for the request. He noted the applicant had mentioned: clearing nuisance vegetation; removing trash and tree limbs/brush for visibility; and incorporating a pre-existing structure built on the ROW into his property.

Councilor Kloefer requested clarification on the compensation calculation. She was specifically interested in the wetlands boundary area and if it was designated by a wetlands delineation. City Planner Phillips indicated that the wetlands boundary area was established by the City's locally significant wetlands boundary map established in the 2011 local wetlands inventory, not a wetlands delineation. He noted that the area based on an actual wetlands delineation may have an impact on the area calculated. Councilor Cockrum felt it would be prudent to have a wetlands delineation to solidify the area of property that could be developed, which may increase the compensation calculation. Mayor Smith mentioned that the Council could require a delineation as part of the conditions of approval. City Planner Phillips indicated that the Council could base the final compensation amount on the outcome of a wetlands delineation with a caveat that it is not to be less than a specified amount. He recommended that if Council required a delineation as a condition of approval, that it would not need to be certified by the State nor that the City would pay for it. City Planner Phillips noted that the Council could request that they approve the person doing the wetlands delineation and/or that the person have certain qualifications (e.g., biologists). He also suggested an option of having the cost of the delineation be subtracted from the compensation amount.

- Mayor Smith asked if there were any proponents, which there were none.
- Mayor Smith asked if there were any opponents, which there were none.
- Mayor Smith asked if there were any neutral comments, which there were none.

Mayor Smith closed the public hearing at 5:15 pm and opened the regular meeting of the Council.

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

Approve Minutes.

- ON MOTION by Councilor Kloefer, 2nd by Councilor Cockrum to approve the minutes of the August 28, 2025 worksession meeting, MOTION was approved 4 yeas (Cockrum, Devereaux, Kloefer, Smith) - 0 nays.
- ON MOTION by Councilor Cockrum, 2nd by Councilor Kloefer to approve minutes of the September 3, 2025 regular and public hearing meeting, MOTION was approved 4 yeas (Cockrum,

Devereaux, Kloepper, Smith) - 0 nays. Councilor Kloepper requested clarification from Interim City Attorney Jacobs on any additional information on retrieving data from the former City Attorney's computer, which Mayor Smith said could be addressed during the City Attorney's Report.

Mayor Smith inquired if there were any questions on the Planning Commission document in the Councilors' packets, which there were none.

Mayor's Report. Mayor Smith reported he attended the worksession.

Councilor Reports.

- Councilor Cockrum had meetings with Administrator Sweet regarding the Public Safety Building process and survey. She did check reviews on the City's finances. She attended the Clatsop County Regional Housing Taskforce, which had information on funding programs/assistance for middle housing opportunities. She also reviewed the Oregon Local Revenue Tools Guidebook (League of Oregon Cities).
- Councilor Kloepper met with Public Works Director Mark McFadden to discuss departmental needs (current and future). She reported that the 2nd Street property closed with North Coast Land Conservancy (NCLC) as the new owner. She indicated NCLC was interested in turning the property over to the City; however, while it is still in their possession, the public and/or pets are not allowed on the land. She noted that the property is currently not a public park.
- Councilor Devereaux had nothing new to report.

City Officer Reports.

- Chief of Police. Police Chief Gregory noted that police statistical data was not yet ready for distribution; however, he verbally went over case counts. He mentioned that police staff have been training on Central Square, which he explained was a new county-wide record management and computer aided dispatch system that will be rolled out in October. Councilor Kloepper inquired if the police department working area was serviceable. Chief Gregory indicated it was much better.
- Fire Chief. Fire Chief Como went over the department's statistical data. He talked about mutual aid incidents and mentioned receiving assistance for a deceased animal recovery from a tree.
- City Treasurer. Financial reports were submitted in the Councilors' packets. She reported that in monthly financial news, in order to maintain a positive fund balance in the General Fund, a \$40,000 interfund loan was transferred from the Water Reserve Fund. She noted that the loan revenue was in the General Fund account 10-0090 and the expenditure was in the Water Reserve account 71-7197. She also indicated that there will be another loan transfer to support operating

expenses in October. She explained that the interfund loan amounts will be paid back as soon as the City receives property tax payments in November. She reminded Councilors that these were anticipated amounts and approved in the budgeting process. She also noted that September was a month of evaluating cash flows and focusing on the City's financial status. She reported that, unfortunately, Gearhart was facing a budget gap in the General Fund for the simple reason that the City's revenue sources were not keeping up with rising operating costs. She mentioned several revenue sources coming in lower than last year (Charter Communication, Recology Western Oregon Waste, OLCC Liquor Tax, Marijuana Tax, and Cigarette tax). She indicated that the City's property tax amounts had not yet been released. She stressed that City staff had prepared a lean, balanced General Fund budget that did not include an ending fund balance or contingency. She did not feel that the General Fund would be operating in a deficit at the end of the fiscal year; however, did feel that the City would have spent the majority of revenue with limited cash carry forward. She noted that the League of Oregon Cities (LOC) has recognized the crisis facing cities and She mentioned Councilor Gould and Councilor Cockrum attended a LOC Small Cities Meeting where the LOC presented an Oregon Local Revenue Tools Guidebook, which shares general knowledge of revenue tools for cities in Oregon. She noted that City staff were aware that they need to watch expenditures and look for efficiencies. She mentioned the City would be looking at creating a revenue strategy team to focus on maintaining a balanced budget and increasing reserves, while preserving the goals of the comprehensive plan. Councilor Cockrum inquired about a timeline for implementing any recommendations from the new committee. Treasurer Hill indicated that if a vote is required on any options, the timeline would be very similar to the Public Safety Building to meet the May ballot deadline. She indicated that if a vote was not required, the changes could be implemented through the budget process or through a supplemental budget. Councilor Cockrum also inquired where the expenses for the professional services for the court judge were in the financial report, which is located in the General Fund, Account 15-1540, Professional Services. Councilor Kloepper inquired about the marijuana tax, to which Treasurer Hill indicated that one of the local stores is not bringing in as much revenue.

- City Attorney. Interim City Attorney Jacobs reported Beery, Elsner & Hammond's (BEH) staff were continuing to work with City staff on various projects. He noted that in terms of gaining any access to the former City Attorney's electronic files, there has not been much progress. Their firm will remain in contact with the attorneys handling Mr. Watt's estate. He reiterated that BEH has received a small box of paper files, which do not contain anything of substance. Councilor Kloepper inquired on how to prevent this from happening in the future. Interim City Attorney Jacobs suggested the City Attorney have a file management system with back-up and that the system is accessible by the City staff.

- City Administrator. Administrator Sweet's report was sent to the Councilors in their packets. He gave an update on the tidal wetland area that contained "no trespassing" signage. He has investigated the issue, met with the homeowner, talked with the City Attorney, and researched public trust doctrine. Based on what he has gathered, he feels the signs are legal and that the City cannot require the property owner to remove them. He indicated that property owners can have signage that meets the City sign regulations. He discussed temporary sign definitions and explained how he interpreted the language ("*definition of about 365 days minus one*"). He also reminded individuals walking through the area that it is private property. There was continued discussion of other staff supporting the decision; reevaluating the sign language in the zoning code; possible options to help individuals recognize access areas; and level of involvement from the Department of State Lands. Administrator Sweet also talked about the memorial bench program. He indicated that City staff would be moving forward with contacting the first 5 bench requestors on the City's list. He noted that the ocean front bench sites are not available because they require approval from OPRD. He mentioned there will be a few benches replaced downtown due to safety and maintenance issues. He indicated that Public Works Director Mark McFadden would be giving a public works update next month. Administrator Sweet mentioned work continuing on the Public Safety Building (PSB) survey; that there was no new information on the water rights application; and he had a meeting with Representative Javadi. Councilor Kloepper inquired about a code enforcement shed violation (*structure placed too close to property line*), which Administrator Sweet indicated was in the process of being resolved.

Visitors. David Carr, Executive Director, Sunset Empire Transportation District (*SETD not on agenda; however signed in at the meeting*). SETD Executive Director Carr wanted to update the communities where they provide service. He mentioned financial status; services; opportunities to improve; and encouraged feedback. Councilor Cockrum inquired about when daily ridership was heaviest, which SETD Executive Director Carr said was the mornings and evenings. He noted the middle of the day was the most challenging and that there is a daily gap period where they do not operate. He indicated that they cannot add services but hope to improve what they offer.

Public Communications - Written & Oral. Mayor Smith read the oral public comment statement on the agenda. There was written correspondence submitted by Elizabeth Lilley (Short-Term Rental Garbage Suggestion).

- Bob Morey (271 D Street, Gearhart) thanked the City Council for the last worksession and the work that has been put into the Public Safety Building project. He mentioned that after hearing the City Treasurer's report, the City needs to focus on how it is spending its funds. He also suggested not doing any public surveys that change the location out of downtown. He feels the goal is to get

the Public Safety Building done. He feels the City needs to simplify and stay focused on the downtown site. He mentioned that based on the country's current financial situation it may be a challenge to get a \$34-\$37 million bond passed. He noted he was pleased to learn that a remodel, reconstruction at the downtown site was being considered, which he indicated would have "yes" signs on both of his properties. He cautioned not to reference costs or longevity of facilities if the figures have not been vetted. He again thanked the Council and reiterated that the City does need a Public Safety Building.

- Tom Thies (292 Woodland, Gearhart) talked about short-term rentals (STR). He mentioned that the City may lose another STR and that the number continues to decrease. He noted that losing STR decreases income to the City. He indicated he was not advocating for more STR, but was wondering how many less was the goal. As an example, he referenced if the STR level drops below 50, maybe implementing a lottery process for people that may be interested in having one.

Ordinances/Resolutions.

Ordinance 950 - An Ordinance Vacating a Portion of Hemlock Avenue Right of Way. Mayor Smith introduced the Ordinance and asked Administrator Sweet to go over the staff report. Administrator Sweet also noted the applicant was present.

- ON MOTION by Councilor Cockrum, 2nd by Councilor Kloepper to approve Ordinance 950 with the six conditions in the staff report (page 14) with the exemption of #4 because of the compensation amount change and the additional of #7 which requires the applicant to obtain wetlands delineation and staff the ability to calculate a revised compensation amount (*using actual buildable land provided from wetlands delineation*), MOTION was withdrawn after discussion.
- Administrative Sweet recommended the Council talk with the applicant (Terry Lowenberg) since he was available. By consensus, Council agreed to allow discussion with the applicant (Cockrum, Devereaux, Kloepper, Smith).
- Mayor Smith asked Applicant Lowenberg if he was interested in providing any input on the compensation amount proposed in the staff report. Applicant Lowenberg noted that his opinion of the compensation amount has not changed because it is worthless land that is not buildable. He feels the ROW cleans up the property. He reiterated that the ROW property has zero value because it is non-buildable by anyone because of the wetlands area. He also noted that the septic system prevents more building. He feels the property is in a "fixed situation that has no possible variance." He is willing to give a small amount of money, which would assist the City by putting the property area back on the tax rolls. He indicated he had no reason to pay \$29,000.

- Councilor Kloepfer requested clarification from City Planner Phillips. She inquired if it was possible to add a condition of approval that would prohibit building on the ROW. City Planner Phillips indicated that it may be possible if there was a reason that was directly related to the City's code or there was an impact to the public. He indicated the City would need to be conscientious of unconstitutional expropriation. He confirmed that the City could designate the ROW wetlands area as non-developable because it is already specified in the zoning code.
- Interim City Attorney Jacobs indicated that imposing certain types of conditions on the property could be deemed a taking; however, if the City reached an agreement with the property owner in the form of a contract, conditions can be mutually agreed upon. He gave an example of imposing a compensation fee and in exchange for the mutually agreed upon condition (no build easement) the City could also authorize a waiver of the fee.
- Applicant Lowenberg indicated that there are different regulations based on the City giving the property or selling the property. He felt that when a piece of property is sold, stipulations can be put on it prior to the sale.
- Councilor Devereaux gave a reminder that if the applicant gets the property, it would go back on the tax roll and the City would receive additional property tax revenue.
- Councilor Kloepfer inquired of Applicant Lowenberg if he was willing to pay anything for the ROW property. Applicant Lowenberg indicated that he would be willing to give the City \$5,000, which would be for incurred City costs created by the process. He noted he was not willing to do a wetlands delineation. He agreed that in the sales agreement a statement could restrict that the ROW property never be built on.
- Councilor Kloepfer inquired if language was stipulated regarding no building on the ROW property, would that prevent any currently existing buildings from being expanded.
- Interim City Attorney Jacobs clarified that the property is not being sold, it is being vacated. He indicated that the zoning code requires the City to receive compensation. He stressed that it is not the same as a regular real estate sale. He reiterated that the City could stipulate a condition of approval that could be applied as a waiver to the calculated compensation amount. Mayor Smith inquired about the procedure regarding the appropriate legal language that would be needed to approve the type of agreement that Interim City Attorney Jacobs mentioned.
- Councilor Kloepfer felt that the conditions of approval should be put on the Ordinance. City Planner Phillips indicated that they could be placed on the Ordinance and resubmitted to the Council. City Administrator Sweet indicated that the Council could clarify their changes, make a motion, and have City staff implement.

- ON MOTION by Councilor Devereaux, 2nd by Councilor Kloefer to vacate the ROW (portion of Hemlock Avenue) with the conditions that other Councilors were concerned about and the compensation amount would be \$29,140 with a \$24,140 no build City easement agreement, MOTION was approved 4 yeas (Cockrum, Devereaux, Kloefer, Smith) - 0 nays.
 - It was clarified that the language in condition #4 would align with Interim City Attorney Jacobs suggested language regarding a no build easement fee waiver; there was no added condition of approval #7; and that the Ordinance was approved with the modifications.

Old Business. Mayor Smith invited the public to comment on the old business item.

Flood Hazard Overlay Zone (FHOZ) Briefing. Mayor Smith introduced the item and City Planner Phillips went into further explanation. He explained that Council approved Ordinance 947 at the August City Council meeting, which amends text in the Gearhart Zoning Ordinance (GZO) Flood Hazard Overlay Zone (FHOZ) to align with the Oregon Model Flood Hazard Management Ordinance. He noted that with that approval, the Council chose to decline to update the GZO to include FEMA's Endangered Species Act (ESA) Pre-Implementation Compliance Measures (PICM) Model Ordinance. Since that approval, the City Council has expressed an interest in having FEMA's ESA PICM Model Ordinance reintroduced for approval. City Planner Phillips felt that it would behoove the City to restart the public participation process. He indicated that there is a Public Hearing scheduled with the Planning Commission. He indicated the City staff will be recommending the Planning Commission to approve or not object to the Ordinance. He noted that this would then allow the City Council to decide whether or not to adopt the ESA PICM standards. He went over the implications of the Council not approving the Ordinance. City Planner Phillips indicated that approval allows the City to be ready for any potential 90 day FEMA notice and be ready to respond to any outcomes from current litigations. He noted that he included a selection of slides from a FEMA presentation that provides an overview of the PICM requirements.

- Councilor Cockrum inquired if FEMA was still accepting comments on PICM. City Planner Phillips clarified that FEMA was still accepting comments on the environmental impact statement on permanent implementation measures for protecting endangered species in the flood plains, which is not the pre-implementation measures. He indicated that staff are preparing comments that are technical in nature.

City Attorney Services RFP Update. Mayor Smith introduced the item and Administrator Sweet went into further explanation. He indicated the City has received one City Attorney proposal.

Administrator Sweet did a brief introduction with the applicant (Robert Luce) and recommended a formal interview with the City Council. He noted that the applicant currently resides in Alaska but would like to meet in person if selected for an interview. BEH has been continuing to assist Gearhart, to which he expressed gratitude.

- Councilor Kloepper would like to send questions to the applicant in advance.
Administrator Sweet agreed that it was a prudent idea. He indicated he would send some preliminary questions to the City Council for their input.
- Councilor Cockrum asked if there was information available on the applicant.
Administrator Sweet indicated there was and that he would provide that to the City Council.
- By consensus the Councilors agreed to formally interview the City Attorney applicant (Cockrum, Devereaux, Kloepper, Smith).

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

Liquor License Application Review - Special Event - Pacific Pickins. Mayor Smith opened the new business item, which was a request for a one-time liquor license application for a special event at a local business (Pacific Pickins). Councilor Cockrum expressed some issues with items that were not completely filled out on the applications (e.g., license type, ever possessed a license). There was continued clarification on the applications and event. Executive Assistant Ficker noted that applicants cannot move forward with OLCC approval without the local government's approval, which requires the City Council to approve before Administrator Sweet can authorize.

- ON MOTION by Mayor Smith, 2nd by Councilor Devereaux to approve Pacific Pickins liquor license application for a special event, MOTION was approved 4 yeas (Cockrum, Devereaux, Kloepper, Smith) - 0 nays.
- There was continued discussion on the event being indoor/outdoor; enforcement, Police Chief Gregory's input; type of license; and time. At the request of Councilor Kloepper, Administrator Sweet was asked to inquire with the applicant if the event would also be outdoors.

Domestic Violence Proclamation. Mayor Smith asked by consensus if he could read the Domestic Violence Proclamation. There was approval by consensus (Cockrum, Devereaux, Kloepper, Smith).

Council Concerns.

- Councilor Kloepper reported no concerns.
- Councilor Cockrum reported no concerns.

- Councilor Devereaux reported no concerns.
- Mayor Smith reported no concerns.

Adjournment.

- ON MOTION by Councilor Cockrum, 2nd by Councilor Kloefer to adjourn the meeting, MOTION was approved 4 yeas (Cockrum, Devereaux, Kloefer, Smith) - 0 nays. Mayor Smith adjourned the regular Council meeting at 6:54 pm.

Mayor Kerry Smith

Chad Sweet, City Administrator