

CITY OF
GEARHART

Staff Report

For City Council Meeting - 10/6/2021

Subject - Old Business - Fire / Police Station Update

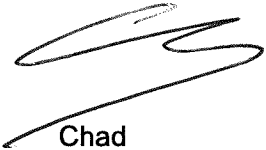
Synopsis: City Administrator Chad Sweet will give an update on the proposed Station bond measure, location work, land acquisition status, and related correspondence.

Recommendation: N/A

Legal Analysis: N/A

Financial Analysis: N/A

Respectfully submitted,



Chad

Beau V. Peterson
Circuit Court Judge



**CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLATSOP**

Clatsop County Courthouse
749 Commercial, P.O. Box 835
Astoria, Oregon 97103

September 30, 2021

Harold Gable
PO Box 2379
Gearhart, Oregon 97138

Jack Zimmerman
PO Box 2480
Gearhart, Oregon 97138

Peter Watts
1980 Willamette Falls Dr. Suite 200
West Linn, Oregon 97068

Re: Jack Zimmerman, Harold Gable v. City of Gearhart, Case No. 21CV34129 – Ballot Title Objections

This matter is before the court on the Petition of Mr. Gable and Mr. Zimmerman under ORS 250.296. Petitioners allege that the ballot title of a proposed ballot measure filed in the City of Gearhart is insufficient, not concise or unfair. The City of Gearhart responds that, given the space constraints for a ballot title, the proposed title contains all the necessary information and is appropriate.

As a preliminary matter, given the timing needed for a measure to appear on the ballot, the City noted that the objection and hearing in this matter would preclude the ballot measure from being on the ballot in the upcoming November election as had been originally planned. Both the City of Gearhart and the Petitioner's agreed that, since the measure will be referred in a future election, likely in the spring of 2022, the court can and should still rule on the objections.

The first objection raised by petitioners is the use of the plural "bonds" instead of the singular "bond." The petitioners assert that use of the plural would allow the City of Gearhart to seek multiple rounds of funding that may exceed what the voters intended to authorize. The statutes that govern a municipality or local taxing district's ability to raise funds for capital projects through bonds (see ORS 280.040 et. seq.) refer to these items as "bonds." The process for issuing such bonds does not generally

contemplate a single bond for millions of dollars to be sold to single purchaser or entity. The statutes do not allow for issuance or collection beyond the amount listed in the ballot measure, regardless of whether the city issues a single bond to single purchaser, or multiple bonds to multiple purchasers. The request to change the wording from “bonds” to “bond” is denied.

The Petitioners suggest other changes as well, such as identifying the commonly described location that the new police/fire station would be built on. Given the word limit for ballot titles, the court does not find that the ballot title as written is inaccurate, unfair or not concise for not including the phrase “Highlands Fire/Police/Resiliency (HFPR) Station. The proposed title sufficiently identifies the purpose of the bond. Any voter interested in more details will be able to find them. The same is true for the tsumani rating, the preliminary nature of the cost estimates and the other complaints the Petitioner’s have with the ballot title.

Lastly, Petitioner’s argue that including in the ballot title that the new building would include “sleeping areas to maintain around the clock on duty staffing” could be used by the city to claim voter approval for moving from a primarily volunteer fire department to one that is staffed with full time employees. Whether the City of Gearhart chooses to remain a volunteer-based fire department or not is obviously not within the purview of this court. I can, however, state, that under the statutes dealing with property tax bonds and bond measures, bonds authorized by the voters for a one-time capital expenditure (i.e. the construction of a police and fire station) could not be used to hire full time staff on an on-going bases. Due to that, I cannot find that the ballot title as written is insufficient, not concise or unfair.

The petitioner’s request to have the court edit the ballot title is denied. Mr. Watts shall submit an appropriate order to the court for signature.

Sincerely,

A handwritten signature in black ink that reads "Beau Peterson". The signature is written in a cursive, flowing style.

Beau Peterson, Circuit Court Judge

Signed: 9/30/2021 03:36 PM