

Gearhart Planning Commission Minutes for September 11, 2025

MEMBERS: Virginia Dideum, Russ Taggard, Don Frank, Eric Halperin, Emerson Fisher, John Mesberg, and Jennifer Grey

STAFF: Chad Sweet, Garrett Phillips, and Angoleana Torres

Minutes

The regular meeting of the Gearhart Planning Commission for Thursday, September 11, 2025, was called to order at 6:01 p.m. by President Virginia Dideum. *All Members and staff were present except Frank who was excused.*

COMMISSIONER EXCUSED

On MOTION by Mesberg, 2nd by Fisher, to excuse Don Frank from this meeting.

6 - Approved (Dideum, Taggard, Halperin, Grey, Mesberg, Fisher)

0 – Opposed

CONSENT AGENDA

On MOTION by Grey, 2nd by Taggard, the consent agenda was approved as presented. Said agenda approved Minutes for August 14, 2025, financial report for August 28, 2025.

6 - Approved (Dideum, Taggard, Grey, Halperin, Mesberg, Fisher)

0 – Opposed

STAFF REPORT

Sweet reported that construction activity in the city has picked up, with several new houses underway, and more pending. In addition, there has been steady work on remodels, roofing projects, and tree permits, with about five or six tree applications processed in the past two weeks. The building department has also been managing ongoing code enforcement matters. Sweet noted that Taggard has been actively involved in efforts to streamline the city's tree permitting process and continues to push improvements forward. On the Public Safety Building, Sweet explained that city council decided not to move forward with placing a \$33-35 million bond measure before voters after hearing community concerns. However, council emphasized that doing nothing is not an option and remains committed to addressing staff and volunteer working conditions. The city is preparing a comprehensive survey to gather community feedback on alternatives, which may include remodeling the existing fire station, constructing a smaller new building to meet only basic needs, or exploring other property options. Sweet also highlighted the challenges posed by costly critical infrastructure mandates, which drive up construction costs significantly, and said the city is working to refine options and pricing before engaging the public on next steps.

Phillips reported that the downtown floating zone map amendment, which adjusted 5,000 square feet of R-2 zoning to C-1, was approved by city council and adopted by ordinance. He noted that council also adopted the basic Oregon Model Ordinance for the flood hazard overlay zone but has now requested that staff bring back the FEMA pre-implementation compliance measures for further review. Because there were earlier community concerns about the FEMA model ordinance, Phillips explained that the process will restart with new hearings before both the planning commission and city council to ensure public involvement. Staff are also considering ways to give property owners credit for habitat improvements, such as removing a house in the floodplain before future development occurs. Phillips added that the Hemlock Street Vacation, which the planning commission

previously reviewed without objection, will return to city council for another hearing to resolve compensation details. He concluded by noting that the department remains busy with permits and inquiries, particularly related to partitions, floodplain development, wetlands, and the beach and dune overlay zone, requiring significant coordination with property owners and the public.

COMMISSIONERS REPORT – None

VISITORS COMMENTS – None

PUBLIC HEARINGS - None

UNFINISHED BUSINESS – None

NEW BUSINESS

Phillips reported that the planning commission and city council have received public comments since early summer requesting that the city prohibit pickleball courts and play in the R-1 residential zone, prompted by a resident's effort to convert a private tennis court into a pickleball court. He explained that council directed staff in August to work with the commission on zoning ordinance amendments aimed at minimizing pickleball noise impacts in residential neighborhoods. Phillips outlined the process, noting that staff will prepare draft amendments for the commission's review and hearing, followed by city council consideration. He highlighted that pickleball noise is scientifically documented to be particularly disruptive due to its volume, frequency, and rhythm, with impacts that extend beyond simple decibel measurements. Other communities have addressed this through zoning regulations, and local sound measurements conducted by staff align with national findings, reinforcing the legitimacy of considering regulatory options.

Phillips explained that while the city's nuisance noise code already limits daytime noise to 55 decibels, pickleball presents unique challenges because its repetitive, impulsive sound is more disruptive than typical noise at the same level. He also noted the practical difficulties of enforcing nuisance standards, such as requiring staff or police to measure noise and defend the readings in court. Instead, Phillips suggested that regulating pickleball through zoning would be more effective, treating pickleball play, courts, striping, and nets as a land use that could be permitted, prohibited, or restricted by zone. He outlined two main approaches: prohibiting pickleball outright in residential zones or establishing distance-based standards, such as banning courts within 200-250 feet of dwellings and allowing conditional use permits beyond that distance. He added that similar standards could apply to commercial zones near homes. Phillips also discussed whether to attach regulations in each base zone or consolidate them into Article 6, noting his preference to keep the code simple and avoid unnecessary repetition. He acknowledged potential noise-mitigation strategies, such as specialized paddles, vegetation buffers, fencing, or below-grade courts, but recommended starting with straightforward rules on where pickleball is allowed and prohibited. He concluded by asking the commission for direction so staff can draft text for review at the next meeting.

Questions were asked about the distance of existing pickleball courts from nearby residences, noting that the city's current courts may be as close as 60-100 feet. It was discussed whether a 300-foot setback standard would be meaningful, since only exceptionally large lots could accommodate such a requirement, effectively limiting it to a single private property. It was suggested that if the city intends to prohibit pickleball in residential zones, a clear ban would be more straightforward than imposing distance criteria. Phillips clarified a drafting error in the

proposed language and explained that his intent was to allow courts more than 300 feet from dwellings as a conditional use, with simpler implementation possible by consolidating the rules into Article 6 rather than repeating them in each zone. Fisher asked about the status of a resurfaced private tennis court being converted, noting that it appeared striped for both tennis and pickleball but was not yet in use. Phillips emphasized that any new ordinance would not retroactively shut down existing courts, whether city-owned or already established on private property, unless the commission directed staff otherwise. Members acknowledged that if pickleball play begins before new regulations are adopted, the city's general noise ordinance could still provide a means of enforcement.

Visitor Graff shared that banning pickleball play, as opposed to just courts, could be applied retroactively. He stated that while courts may be considered a land use and thus grandfathered, the act of playing pickleball is not classified as a land use, which could potentially make a ban enforceable against activity which could be retroactive. He acknowledged that clarification from the city attorney would be needed.

City Attorney Soper explained that if a pickleball court is already operational when a new ordinance prohibiting courts is enacted, it would be treated as a nonconforming use under city code. This means the existing court is allowed to continue because land use laws are not retroactive, though discontinuing the use for a period could affect that status. He noted that while the court itself is clearly a land use, playing pickleball is less clearly defined, but practically, one cannot play without a court, so the distinction is likely irrelevant. He then added that concerns about noise from nonconforming courts could still be addressed using the city's existing nuisance noise ordinance, despite its enforcement challenges.

Halperin asked for clarification regarding the distinction between the physical presence of a pickleball court and the activity of playing pickleball. He referenced a question raised by Graff, asking whether the city could retroactively prohibit playing on existing courts, even if the courts themselves were legally established. Soper responded that this issue required further legal research, noting that while land use codes regulate physical development, regulating the act of playing pickleball may not be defensibly categorized as a land use. Soper suggested that such regulations might instead need to be addressed through broader provisions in the municipal code, akin to regulations governing public activities such as littering.

Grey raised questions regarding the conditional use process, asking under what circumstances such a mechanism would be appropriate. Phillips explained that conditional use review would allow the planning commission to evaluate specific proposals for pickleball courts, particularly on commercial or semi-public properties, such as lots adjacent to U.S. 101. Phillips emphasized that the intent of a conditional use process is to allow property owners to pursue reasonable uses of their land while providing a mechanism for mitigating potential impacts on neighboring properties. He noted that applicants would be expected to provide detailed analysis and mitigation strategies demonstrating that the proposed use would not adversely affect surrounding residences or businesses.

Grey asked whether, instead of an outright prohibition in residential zones, the city could establish a uniform setback rule under Article 6, for example, requiring any pickleball court to be located at least 250 –300 feet from a residence or property boundary. She suggested that such a rule would still allow courts to be built on commercial lots if they were not in close proximity to houses. Grey questioned why the city would go further and prohibit pickleball courts altogether if a distance-based standard could address the issue.

Phillips explained that if pickleball courts were prohibited within 300 feet of a residence in residential zones, such a rule would in effect amount to a complete ban, since residential lots are not large enough to accommodate that distance. He noted that instead, the city could prohibit courts outright in residential zones and consider allowing them in commercial zones only through the conditional use process.

Sweet underlined that the conditional use process allows the planning commission to impose specific conditions to mitigate potential nuisance issues. The commission can evaluate whether an applicant can meet required measures, and whether the applicant's ability or inability to do so may influence the decision on granting conditional use. He noted that certain uses are inherently conditional under the code, and this process ensures the commission can assess whether the proposed use is appropriate.

Mesberg asked whether the proposed 300-foot separation rule would apply to indoor pickleball facilities, noting that most facilities, especially in this climate, are enclosed and often operated as businesses. He questioned if a prohibition within 300 feet of a residence would still apply if the court were inside a building.

Dideum expressed concern about the practical challenges of enforcing a distance-based rule, noting that city staff are frequently called upon to measure things all the time.

The commission discussed the structure of the zone text amendment. Phillips recommended using Article 6 of the municipal code as a catch-all amendment, allowing the city to avoid repetitive modifications across multiple base zones.

Graff asked whether the proposed 300-foot setback for pickleball would be measured from the source of play or from the property line. He also urged the commission to ensure that any prohibition apply to both pickleball courts and pickleball play. Dideum thanked Graff for his comment and clarified that, as the planning commission, their authority is limited to land use matters. Regulating the act of play itself falls outside their purview.

The proposal agreed upon by the commission was to:

1. Prohibit pickleball courts entirely in all residential zones.
2. Allow pickleball courts in commercial or semi-public zones only through the conditional use process, requiring public notice, planning commission review, and opportunity for testimony.
3. Use conditional use criteria with distance considerations applied during the conditional use review rather than through a fixed minimum to ensure that each proposal addresses potential impacts on both residential and neighboring commercial properties.

Staff and legal review would clarify whether indoor facilities require separate consideration.

The commission concluded that these provisions provide a clear regulatory framework while maintaining flexibility to evaluate individual proposals, reduce potential conflicts, and avoid legal challenges under the Land Use Petition Act (LUPA). Phillips confirmed that staff had sufficient direction to draft the proposed ordinance for review, public hearing for the October meeting.

INFORMATION / DISCUSSION

CONCERNS OF THE COMMISSION

Dideum raised a concern about the status of the Elk Collaborative. Sweet responded that the Collaborative remains active and recently held a meeting to discuss the Declaration of Cooperation and current elk activity. He noted that while Gearhart is seeing only a few elk, Warrenton continues to experience larger herds. Representatives from the Department of Fish and Wildlife, local officials, himself, and Phillips, participated in the meeting. Sweet emphasized that the Collaborative is continuing its work, monitoring conditions, and keeping discussions ongoing to ensure the efforts and agreements do not fade.

Mesberg asked whether the crumbled sidewalk on Pacific Way would be repaired by the city or was the responsibility of the homeowner. Sweet explained that responsibility is shared but confirmed the city is taking on the project. He noted that Mark McFadden has arranged for the work, and while waiting for the contractor, other paving projects are already underway in town, with more scheduled in the coming weeks.

QUESTIONS FOR LAND USE ATTORNEY – None

The meeting was adjourned at 7:14 p.m.

Angoleana R. Torres, Planning Assistant

Virginia Dideum, Commission President

