

# Gearhart council levies hefty fines against party barn

**'It's not right,' Smith says**

By R.J. Marx  
Seaside Signal

GEARHART — After meeting for more than five hours, the Gearhart City Council on Tuesday, Dec. 15, upheld more than \$30,000 in penalties against Neacoxie Creek Barn owner Shannon Smith but agreed to cut the fine in half.

Smith appeared before the council to appeal the civil administrative fines levied by Building Official Jim Brien for renting out her barn without an occupancy permit.

"It's not right," Smith said after the decision was rendered. "It's not fair."

Councilors upheld Brien's penalties, issued for use of the barn for weddings and special events throughout the summer on six separate occasions, each carrying a \$5,000 penalty.

"All six of these violations, I personally visited the site," Brien said. "In the beginning, I tried to work

with Ms. Smith. I wanted her to make some money. She promised that if I didn't close her down, she wouldn't do it again. This has been going on for over four years."

## 'Disaster waiting to happen'

He said restrooms are required in public buildings, and regulated by the building official. The facility relies on portable toilets for guests.

"The code is very clear," Brien said. "The whole thing is, she has not put toilets in there."

He said the barn was a "disaster waiting to happen," with construction flaws that could put guests at risk.

The lack of hot water for dishwashing and food preparation distressed Councilor Paulina Cockrum.

"It's hard to understand, when human health and safety are at issue," she said.

Smith's attorney, Dan Kearns, sought to persuade the council that "vindictiveness" against his client played a role in the repeat-

ed administrative penalties.

Kearns said Smith had no need of a certificate of occupancy to hold the types of events occurring at the barn.

Since the barn had been an event space in the past, Smith had no need to acquire a conditional use permit for future events.

He also argued Smith had been complying with the city's requests, but consideration of her plans had not been undertaken in a timely manner.

## Other homes as event centers

Kearns said there were at least two other homes in Gearhart advertising themselves as event centers, yet the city had not presented them with violations. In addition, Gearhart's lack of short-term rental rules provided no policies that would prohibit weddings or other parties at the barn.

In a lengthy review on behalf of Smith, consultant Gary Olmon of Architectural Alliance NW in Lake Oswego, said the barn was ready



Consultant Gary Olmon and attorney Dan Kearns.

for occupancy and safe for use. He took Brien to task for failing to approve Smith's plans. "Give her a building permit," he said. "Let's get her cash flowing."

Brien's credibility and professional reputation played a large part in the council's decision to uphold the administrative penalties.

"I stand by my city official," Councilor Kerry Smith said. "He is a professional. He is in this position,

and that's why he has my support."

"Jim Brien gets plans approved in a most timely fashion," Councilor Dan Jesse, a builder, said. "I respect him. Because of that, I am inclined to believe what he is telling us."

Arguments from Kearns and input from the consultant failed to persuade councilors to drop the administrative penalties. The council voted unanimously to uphold Brien.

Councilors then voted to halve the penalties.

"I would like to see the barn work, but I believe blatant disregard needs to be not rewarded, but cost you something so you know this is no fooling around, this is big people business," Councilor Kerry Smith said. "This is what we're going to do to you."

Mayor Dianne Widdop, Cockrum, Jesse, and Fred Meyer voted to reduce the penalties to \$15,000, while Sue Lorain voted against the reduction.

## Injunction hearing ahead

Smith is scheduled to go before Judge Cindee Matyas Dec. 31 in a separate legal proceeding involving Neacoxie Creek Barn. This stems from a decision by Gearhart Municipal Court Judge John Orr that the city failed to appropriately cite zoning code to specifically prohibit weddings and special events. The city is seeking an injunction to prevent future commercial use of the barn.

# Sea turtle rescued in Tolovana is 'hanging in there' at Seattle Aquarium

By Dani Palmer  
EO Media Group

A hypothermic sea turtle rescued in Cannon Beach and taken to the Seattle Aquarium for treatment is doing better, but isn't in the clear yet, according to aquarium staff.

"The turtle has shown slight improvement in the last 24 hours but is still in critical condition," said Tim Kuniholm, Seattle Aquarium director of public affairs. It is under the care of Dr. Lesanna Lahner, Seattle Aquarium's veterinarian.

As of Monday, the turtle still was alive.

"It's not doing great, but it's still hanging in there," said Keith Chandler, general manager of the Seaside Aquarium. He uses the term "guardedly optimistic" when talking about the turtle's outlook.

Staff at the Seaside Aquarium rescued the male olive ridley sea turtle after it washed ashore south of Tolovana the morning of Dec. 14, likely pushed into colder waters by recent strong winds, aquarium Administrative Assistant Tiffany Boothe said. Juvenile olive ridleys sometimes travel in warm currents offshore.

"With the weather patterns, we weren't surprised to find one," Boothe said.

Seaside Aquarium staff



An olive ridley sea turtle rescued by staff at the Seaside Aquarium lies in a kiddie pool covered with blankets.

wrapped turtle in blankets and slowly warmed it to avoid shock while awaiting U.S. Fish and Wildlife Service pickup.

Live turtles are normally taken to the Oregon Coast Aquarium in Newport, but aquarium staff are already rehabilitating one found in Pacific City earlier this month. Newport and Seattle's aquariums are the only Pacific Northwest rehabilitation facilities authorized to provide the care sea turtles need.

Named Lightning for the thunderstorm that coincided with her stranding, Pacific City's turtle is also doing better and was moved to a new pool Dec. 16.

Lightning warmed from 57 degrees when she arrived on Dec. 10 to 68 degrees on Wednesday, said Erin Miller, the aquarium's public relations coordinator in a news release. Lightning's new pool is filled with warm sea water matching her body temperature.

Despite her improve-

ment, "her prognosis remains quite guarded," Miller said. Lightning will require months of rehabilitation before she's healthy enough to be released into Southern waters.

Chandler said the survival chances for Tolovana's

## Olive ridley sea turtles

The second smallest after the Kemp's ridley, the olive ridley turtles weigh between 75-100 pounds (34 - 45 kg) and reach 2-2 1/2 feet (roughly .6 m) in length. They are named for their pale green carapace, or shell and are the most abundant of sea turtle species.

(Source: <http://www.seeturtles.org>)

turtle are slim. At this stage, hypothermic and often injured in the surf, there's a 75 to 90 percent mortality rate for the turtles.

But if the Tolovana turtle survives, it will also be released into Californian waters. The reptiles often hitch a ride with an agency such as the U.S. Coast Guard during a training trip, said Laura Todd, Newport Field supervisor for the U.S. Fish and Wildlife Service.

She noted that Cannon Beach's turtle was at 50 degrees when it arrived in

Seattle. The turtle's normal temperature is in the low 70s.

Sea life rescuers expect to see more of the endangered turtles beached along the coast with this year's El Niño. Todd said the turtles normally remain south of San Diego. However, she added, they do sometimes travel farther north in warm currents searching for food.

"When the conditions are right for one, they're right for several," Chandler said.

Last year, five sea turtles were found off the coast. Three were dead upon arrival and one died in transit. The fifth was successfully transported to San Diego.

On Monday, two more olive ridley turtles arrived in the area, one in Seaview, Wash., and the other near Del Ray, bringing the total to four for this year. Both were transported to the Oregon Coast Aquarium.

The U.S. Fish and Wildlife Service urges anyone who finds a sea turtle on the beach to contact the Oregon State Police Wildlife Hotline at 800-452-7888.

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