

Gearhart transportation plan vital for grant funding

Revisions address tsunami concerns

By R.J. Marx
Seaside Signal

The city could be on the road to applying for more than \$28 million in grant funds for projects as diverse as bike lanes, trail connections, public transit and tsunami evacuation routes.

The Planning Commission voted 6-1 Thursday, July 13, to forward the Gearhart Transportation System plan to the City Council.

If the council adopts the plan, Gearhart would be considered more competitive for grant money to fund “aspirational” projects.

“One of the requirements for most of those grant applications is it has to be in an adopted plan for the city,” Carl Springer, of DKS Associates, said. “Now they can actually check that box, assuming it gets adopted (by City Council). Without it you can still apply, but you’re less competitive.”

Wish list

After the city applied for and won a grant to fund the



Carl Springer of DKS Associates addresses the Gearhart Planning Commission.

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Carl Springer, DKS Associates

plan in 2015, the Oregon Department of Transportation selected and hired DKS to prepare the document.

Over the last year and a

half, DKS and members of Gearhart’s Transportation System Plan Advisory Committee held a series of public hearings in which residents

presented their goal and wish lists. Among them were a safer U.S. Highway 101, regional bike trails and neighborhood connections.

DKS prioritized investments with four tiers, from the \$1.2 million likely to be available through existing funding sources to a more than \$20 million wish list that exceeds the likely level of city and state funding through 2040.

At the lower figure, the city could provide traffic calming devices, tsunami evacuation route identification, bike parking and way-finding signage, among other enhancements.

Higher cost “aspirational” projects include sidewalk replacement, road extensions and Highway 101 reconfiguration. Bridge improvements over Neacoxie Creek could exceed \$2 million.

Seventy-five potential projects are listed in the plan, which outlines policies and projects considered important to protecting and enhancing the quality of life in Gearhart.

Adoption of the plan does not commit the city to the projects, Springer said.

None are funded or planned, City Planner Carole Connell said, but adoption of

the plan will enable the city to request outside funding for future transportation improvements.

Funding sources could include Federal Highway Trust Funds, the State Highway Trust Fund or a Gearhart Road District tax, according to the June draft plan.

Tsunamis, big and small

Gearhart’s tsunami risk was a primary component of the plan, and among the last subject to revision.

“One of the reasons this was funded was it’s the first transportation plan to include tsunami evacuation routes,” Connell said. “ODOT was pretty excited about getting this in a TSP.”

On the assumption an extreme Cascadia event would “take out everything west of the highway,” the original plan advised evacuation to points east of Highway 101.

Evacuation to the west is often the best option, Patrick Wingard of the Oregon Department of Land Conservation and Development said in an email.

After requests from Wingard and other state officials, DKS analyzed high ground

areas expected to remain dry in 95 percent of tsunami scenarios analyzed.

“These areas are for last resort evacuation in cases where someone is physically unable to get outside of the hazard area or there are impassable obstacles,” Wingard said.

The plan revision references three north-south “dune spines for evacuees on the west side” of Highway 101, Connell said, including North Marion Avenue near McMenamins, the Ridge Path and Summit Avenue.

Heading to council

Commissioners Jeremy Davis, Terry Graff, Richard Owsley, Russ Taggart and Chairwoman Virginia Dideum voted to forward the plan to the City Council. Commissioner Carl Anderson abstained.

With the recommendation, DKS and Connell will present the revised transportation system plan at the council’s August meeting.

“The city has yet to prioritize projects,” Connell said. “This is getting the framework in place. The tricky part is figuring out what mix of projects is the most appropriate for the community.”

Gearhart gives OK for lottery machines

State lottery law sways City Council

By R.J. Marx
Seaside Signal

City councilors decided not to roll the dice in a state appeals board and granted Terry Lowenberg a conditional use permit to install lottery machines at the Gearhart Crossing Pub and Deli.

The move overrides a year and a half of testimony, along with Planning Commission and City Council denials, and allows video gambling machines to be placed in a walled area behind the main dining room. Up to six machines are permitted.

Councilors decided not to test state law preemptions over city zoning code.

“The City Council made a difficult decision, but the decision was correct based on the facts of the law,” Gregory Hathaway, Lowenberg’s attorney, said after the July 5 meeting. “The city stopped the appeal process because they wanted to bring it back for discussion. Based on that discussion, they decided to reverse themselves and approve it.”

Repeated denials

Citing losses, Lowenberg, the owner of the former Gearhart Grocery, won a conditional use permit to open a neighborhood brewpub and deli at the grocery’s location at 599 Pacific Way in March 2016, saying the grocery was unable to compete with larger stores. After commissioners approved the plan, Lowenberg submitted an amended permit request seeking video lottery machines.

Maintaining neighborhood character, the proximity of



Terry Lowenberg, left, attends a meeting of the Gearhart City Council on Wednesday, July 5, after his appeal of a denial of his request to place video lottery machines in his business. Lowenberg, owner of Gearhart Crossing Pub and Deli, was granted a conditional use permit to install the machines.

lottery machines at nearby locations along U.S. Highway 101 and no proven need for the machines all factored into the council’s decision to uphold a January Planning Commission denial.

In April, the City Council held an appeal hearing, and affirmed the Planning Commission’s decision to deny the revision. After Lowenberg’s appeal to the state’s Land Use Board of Appeals, the city withdrew the case for reconsideration in late May.

A new staff report recommended that the City Council affirm the Planning Commission’s denial of Lowenberg’s request. “They have to comply with conditional use criteria,” Planner Carole Connell said. “If that use is not listed or permitted, it is considered prohibited.”

State law preemption

But a submission to the city from Hathaway and additional comments from City Attorney Peter Watts led to a change in direction by councilors.

In 1984, voters passed Measure 4 amending the Oregon Constitution to establish a state lottery.

A fundamental provision of the law is that jurisdictions are preempted from enacting any regulation in conflict with its provisions. Land use regulations, whether adopted before or after 1984, would be preempted, Hathaway said.

A key provision of the law regulates how a video lottery game may be placed and does not require an applicant to demonstrate that the placement of lottery machines is permitted by local land use regulations, Hathaway said.

“The preemption use is covered specifically,” Hathaway said. “Other uses as mentioned can be absolutely regulated by the city, but when it comes to the placement of those machines, that’s subject to the preemption statute. It appears to be very unambiguous about the Legislature’s intent: making sure local government regulations don’t prohibit the ability to place authorized lottery machines in authorized places.”

While declining to issue a

recommendation to approve or deny the appeal, Watts said state law had “never been tested.”

“This is a difficult decision, because you’re not only looking at city code, you’re looking at state statutes,” Watts said. “This language is pretty strong.”

The state could preempt local codes, including the city’s comprehensive plan, Watts said, which limits uses in the city’s downtown area.

Change of direction

Ultimately, city councilors decided not to pit Gearhart’s zoning code against state law.

“I must say I am dead set against video lottery machines in the downtown corridor,” Councilor Kerry Smith said before the vote. “I’m going to kick myself. Right now I have to vote for the video lottery machines because of that damn law.”

Councilor Sue Lorain seconded that sentiment. “I feel really badly because I have to vote for it,” she said.

“Our citizens will vote for it with their wallets,” Councilor Dan Jesse said. “They will choose to either support the business or not support the business. Either it will succeed or fail based on what Terry decides to do with it. To me it’s not for us to be getting into. It’s for the citizens to decide. I think the law is pretty clear.”

Jesse, Lorain, Smith and Paulina Cockrum voted on behalf of allowing the machines, with conditions. Mayor Matt Brown abstained.

The city’s staff report, to be presented at the council’s August meeting, will be rewritten to indicate tentative findings and conditions, including limited exterior signage, number of tables in the walled area and food and beverage service in the lottery location.

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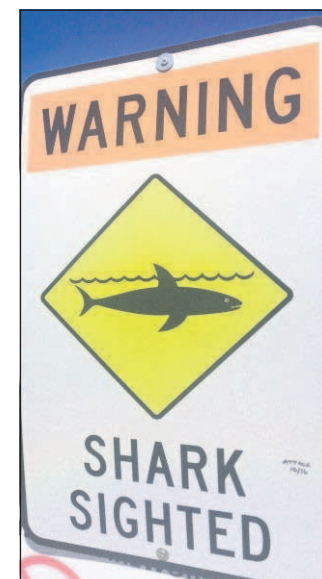
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Possible shark sightings prompt signage



Signs in Seaside warn beachgoers of the potential danger posed by sharks.

Don't panic, calmly exit the water

By Brenna Visser
Seaside Signal

There have been multiple shark dorsal fin sightings in Seaside and Cannon Beach, as Seaside posted warning signs from 12th Avenue to the Cove.

In Cannon Beach, lifeguards reported shark sightings as well. Cannon Beach Police Department tweeted yesterday Oregon State Parks will be posting warning signs soon along the coast.

General Manager of Seaside Aquarium Keith Chandler said without a photo he

couldn't confirm one way or the other that these sightings were shark fins or not, and

that often people commonly mistake porpoise fins for shark fins.

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