

**MINUTES OF THE WORK SESSION OF THE GERVAIS CITY COUNCIL
COUNTY OF MARION, STATE OF OREGON
HELD AT GERVAIS CITY HALL AT 7:00 PM ON APRIL 20, 2021**

1. Call to Order

Mayor Annie Gilland called the meeting to order at 6:30 pm.

2. Pledge of Allegiance

Mayor Gilland asked Councilor Gonzalez to lead in the Pledge of Allegiance.

3. Roll Call

Mayor Annie Gilland	Present
Councilor Pam Foreman	Present
Councilor Baltazar Gonzalez	Present
Council President Micky Wagner	Excused
Councilor Diana Bartch	Present
Councilor John Harvey	Present

Staff Present: City Manager Susie Marston, City Recorder Denise Dahlberg, Police Chief Mark Chase, Superintendent John Robinson (via Zoom)

4. Announcements/Additions

a. Additions/deletions to the agenda

- 1) Councilor Harvey stated that in the last council meeting he wanted to keep this meeting focused on one item (PSU Comparison Compensation Study) and he didn't agree with the agenda having extra items to discuss. Councilor Foreman couldn't understand why some of the items couldn't be discussed at the next council meeting. City Manager Marston explained that the items will be in the council meeting and the reason we have work sessions is so the council has the opportunity to discuss the items first before taking action. Councilor Harvey expressed that he was not for this agenda. Mayor Gilland responded with asking the council if there was anything they wanted to add or delete that would help tonight. Mayor Gilland explained that when she arrived tonight she had not checked her emails but she did have a notice from Marston just needing a consensus on the 4th of July for Michael Gregory to do the fireworks but he needs to get permits. She explained it wouldn't take long for the council to give Marston an idea if they would like to proceed with fireworks this year or not. Councilor Bartch pointed out that there was someone present to discuss the Woodburn-Gervais Enterprise Zone Redesignation and this person needed to schedule a time to meet with the council for a 15 minute presentation. Marston proposed tabling the CERT training since Councilor Wagner wasn't available. Mayor Gilland suggested that in the future if there is an added agenda item that the council be notified of the date to avoid this kind of happening in the future. City Manager Marston explained the council rules that the Mayor and the City Manager set the

agenda and she did send an email to the Mayor with the question of the 4th of July. The Mayor stated she was out of town and did not get the email. Council removed item 5.d. (Consideration of CERT training dates) from the agenda.

5. New Business

a. Discussion on 4th of July fireworks

Mayor Gilland asked council to move up item 5.c. (Discussion on 4th of July fireworks) because she is in support of it and asked Marston if she needed a consensus vote. Marston informed the council that Michael Gregory called her and wants to move forward with the fireworks this year and needs to get his permits sooner than later. Marston explained to him there would be a work session and she would ask the council for a consensus. There was discussion amongst the council about Covid restrictions and the refunding of permit money if the event was cancelled.

Mayor Gilland asked for a consensus for the 4th of July fireworks and all councilors voted in favor.

b. Woodburn-Gervais Enterprise Zone Redesignation Process

City Manager Marston began by introducing Jamie Johnk the Economic Development Director for the City of Woodburn and Amanda Setzer who works with Jamie. Johnk and Marston collectively discussed the Enterprise Zone while presenting a slide presentation. The slide presentation informed the council of the purpose, business eligibility, qualified property, criteria for qualifying projects, and taxing districts involved in the Woodburn-Gervais Enterprise Zone Redesignation process. Johnk provided anticipated dates and times when the sponsoring governments will adopt the requisite resolutions to designate the enterprise zone. Gervais City Council meeting – Thursday, May 6, 2021 at 7:00 pm and Woodburn City Council meeting – Monday, May 10, 2021 at 7:00 pm. Please listen to audio file for more information.

c. Review of PSU Comparison Compensation Study

Mayor Annie Gilland opened this discussion with stating that she was the new Mayor and she was not here when the study was brought about. She disclosed that she was confused by the study, because she recognized what she thought was a conflict of interest and what she thought was an error in the study. So, in finding this conflict of interest in her mind she wanted to resolve it. Gilland called the Ethics Commission and told them what she knew, which was, the city gave the okay to do the compensation study with PSU. She gave the council a printed copy of an email she received from the Oregon Government Ethics Commission with the statutes she was inquiring about. Gilland read the email and statutes ORS 244.020 & ORS 244.120 to the council. Gilland said that she told the Ethics Commission that the City had paid for the PSU study and that they asked her why we would pay for a study when you can simply go to the League of Oregon City website and get a free one. Gilland stated she had a copy and she believed it to be a fair survey study of jobs for cities like ours. She stated that the difference is there is no conflict of interest because none of our people or representatives gave any information to this study that they could later be hurt by or gained by. Gilland stated that she thinks the PSU study has a serious conflict of interest because she was in the audience when it came about and it was about making a salary schedule for our City Manager. Gilland stated that this is the reason we primarily did the study, if you go back in the notes. So, now in the

acknowledgements on this study, Marston is named. Gilland believes that it was not City Manager Marston's fault to be put in the position to do the study. Gilland says that she feels her job cannot possibly be looked at in the study. City Manager Marston replied that part of her job duties are to look at this kind of stuff and she is charged to do it on an annual basis. Marston explained that it hadn't been done since the time she has been with the City. Marston explained that there was a pay equity act that was passed in 2019 that says we can't just look at the salaries which is what the LOC study is. City Manager Marston informed the council that the results of the LOC study were given to them by City Officials and some of them City Managers. She explained that the pay equity act says that we have to look at the whole compensation package (salary, benefits, pto, etc). Gilland asked Marston if they told her she was supposed to pick the jurisdictions that got looked at or was it supposed to be chosen by a neutral party? Marston replied that she worked together with Portland State University. PSU made suggestions and they worked together on it. Marston asked to fully disclose, if the council felt this was a conflict of interest, she didn't want to run the risk of having an ethics violation filed against her. Marston explained that based on her understanding of Ethics law, she was not in conflict of interest because this study is for the whole employee group of the City of Gervais. Marston explained that if the study was just for her and she was the one getting and presenting this information, then that would be closer to a conflict of interest. Gilland replied to Marston stating her job position is in it and that if she stands to gain from it, the statutes are pretty clear that she should have told the council in writing that there was a potential conflict of interest and this is a job duty Marston shouldn't have been able to do. Mayor Gilland stated that she is not somebody that is going to file ethics; she is having a conversation to say that the council will proceed how they are going to proceed. Mayor Gilland states that she personally sees it as a conflict of interest.

Councilor Bartch replied that Marston's job position is in the study but she doesn't see how City Manager Marston personally stands to gain from the study directly. Bartch explains that Marston personally stands to gain from the decisions that the council makes from the study, possibly. Bartch explained that the the council has already taken care of Marston's salary increase. Bartch states that we can't separate Marston's position from everybody else's. Bartch doesn't see that the report itself is a conflict of interest. Gilland says it's not personal but she does see it has a problem. Councilor Foreman asked Marston if she didn't give this information, then who would have the capacity to do it. Marston responded that the City Recorder would have the capacity to do it. Gilland replied, the City Council. Bartch replied that council does not have access to all of her documentation. Gilland replied the City Recorder does. Councilor Foreman asked to finish. Foreman stated that when she looks at the PSU study, essentially all Marston did was plug numbers into a spreadsheet and give the numbers back to PSU for them to clarify. This being public record information to begin with. As the City Manager it is Marston's responsibility to provide this information when asked, it is public record. Foreman does not see it as an ethics violation because Marston is within the scope of her duties. Foreman says what the council decides to do with it in the future could be a different piece of the puzzle. But when looking at an ethics violation, Foreman does not see one. Foreman explained that how can the council hobble Marston with the right to get information that is in her scope to do. Foreman concluded that from her perspective she does not see it as an issue. Gilland concurred with the plugging of the numbers but she didn't agree with the picking of the cities that were studied, not at random but picking could be considered a conflict. Marston asked the mayor if she understood how the cities are picked. Gilland responded that LOC did it by population and asked Marston how she did it. Marston explained that the cities were picked

based on the same geographic location that we are in. They were picked based on the demographics of their work force because they look at job descriptions. Gilland responded that 2 match Gervais. Marston continues that they can't compare job title to job title. A good example would be the City Recorder. A City Recorder in a small city looks a lot different than a City Recorder in a larger city. So, we pick cities that are similar in size and similar with work force make up so that they can compare the job descriptions and what people do. Once they determine that, they can match the salaries, benefits, and the whole compensation packet. Marston states that she doesn't feel that she was put in a bad position to do this, because she was in the scope of her job duties. Marston affirmed that she understands her expectations. Marston continues to explain that this is common practice for cities to do this. The City of Silverton did this study, as well as the Cities of Creswell and Junction City. Marston states that PSU is a common place to do the study. Marston agreed with Councilor Foreman and concluded that she is not outside the scope of her duties in doing the study. Marston affirmed what councilor Bartch said that she and no one else is benefiting from this report. She reminded the council that it is objective information that was given to PSU, they took the information, put it together and provided a report in compliance with the pay equity law and this what we have to work with. Marston stated that it is what the council voted on before anyone new took office.

Gilland opined that the cities were not comparable with Gervais. Councilor Foreman replied that as far as she can still see the cities that are on PSU list are within size of who and what Gervais is. Gilland disagreed. Foreman explained that they are close to us and in the same bucket as us. They don't look exactly like us because we have a population x and they have a population of y. The study is not comparing us to Portland or us to Salem, which would be extremely inappropriate. Foreman explained that when you live in a small town and everywhere around you is small, you cannot run a study on 2 towns. Foreman continued to explain that you have to have enough numbers in the study to have a quantitative study to get the data that you are looking for.

Gilland replied that there is still a potential conflict of interest. Councilor Foreman replied that she does not see the conflict. Gilland recommended not using the study. Foreman asked the council if they needed to discuss whether this was an ethical concern. City Manager Marston replied that given the information, she feels like she is being asked to declare a potential conflict of interest and she didn't see one herself. Gilland replied, do what you have to. Marston asked the council how they would like her to proceed. Foreman asked if they should take a consensus and what was appropriate based on the process. Marston explained that she would be the one to declare the potential conflict of interest and she doesn't see it and she is not going to declare it. Councilor Foreman agreed.

Marston replied that this information is for the council to review, discuss and give the city direction on how they want to use it. Gilland replied, "if they want to use it". Marston replied that the city paid \$6,000.00 for the study. Gilland replied that is unfortunate because there is a free one from a reputable place. Marston replied that that is not in compliance with the Pay Equity Act. Harvey replied then why do we use COG. Marston replied that the LOC study was done in 2018 prior to when the Pay Equity Act came out and it is not up to date. Harvey asked why do we use COG for anything if they cannot give us the proper information. Foreman reminded the council that if we weren't going to do anything with ethics then the council needs to know if this an appropriate study of population, then we need to move on and if the council is not in fair representation then we need to decide from there. Councilor Foreman says she is

new to the council, she has reviewed the study and she has a very strong background in quantitative research and she does not see a problem with the data. Bartch said she also looked at it and said in the next 5 years Gervais populations are going to match many of the cities on the study. Bartch continues to explain that Gervais is building 60 new houses with a potential of 4 plus people in each of those houses and that takes our population close to what the numbers in the study are. Bartch communicated to the Mayor that she said Marston was doing a good job. Gilland responded that she does believe that. Bartch continued to address the Mayor and stated that unless she thought that Marston purposely chose cities bigger than what Gervais is in order to make her salary look smaller than what it actually is. Gilland interrupts Bartch and stated she didn't like that innuendo and she needs to stop. Gilland told Councilor Bartch that she needed to stop and she was out of line. Bartch explained that this is how she heard and understood the conversation. Gilland told her to put it as her opinion; she was out of line and not to speak to her that way. Bartch continued to explain that what she understood from Gilland was that part of the ethics problem was the choices in the cities that were chosen. Harvey said that is not what Gilland said. Gilland said that is not what she said. Bartch replied that is how she understood it. Gilland replied that Bartch understood wrong and she wouldn't even address that. Councilor Harvey suggested that council use the study and move forward. Please listen to the audio file for more information.

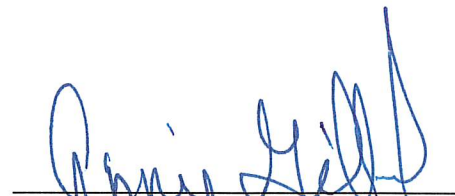
d. Consideration of CERT Training Dates – Removed from agenda

6. The meeting was adjourned at 8:15 PM.

I, DENISE DAHLBERG, DO HEREBY CERTIFY THAT THE FOREGOING MINUTES OF SAID MEETING OF THE GERVAIS CITY COUNCIL HELD ON APRIL 20, 2021 ARE, TO THE BEST OF MY ABILITY, CORRECT AS RECORDED.

ATTESTED:


Denise Dahlberg, City Recorder


Annie Gilland, Mayor