



City Council Chambers
206 N. Main St.
Toledo, Oregon 97391
6:15 p.m.

TOLEDO CITY COUNCIL
Work Session
August 7, 2018

- 1. Call to Order**
- 2. Visitors/Public Comment**

The public comment period provides the public with an opportunity to address the City Council regarding items not on the agenda. Please limit your comments to five (5) minutes.
- 3. Discussion and Information Items**
 - Committee Updates
- 4. Discussion and Information Items**
 - Butler pump station project update
Presented by Public Works Director Mike Adams
 - Discuss items to include on the Agenda for the Joint Work Session with the Lincoln County Board of Commissioners
Presented by City Manager Craig Martin
 - Consider amendments to Toledo Municipal Code; Chapter 8.08; Temporary Uses, Temporary Structures, and Recreational Vehicles
Presented by City Manager Craig Martin
 - Discuss format of City Council minutes
Presented by City Manager Craig Martin
 - Review Council Rules
Presented by City Manager Craig Martin
- 5. Reports and Comments**
 - Department Reports
 - City Manager's Report
 - Council Comments
 - Mayor Comments
- 6. Adjournment**

CITY OF TOLEDO
CITY COUNCIL INFORMATION

DATE INFORMATION CONSIDERED: August 7, 2018			
Ordinance ☐	Resolution ☐	Motion ☐	Information ☒
Date Prepared: August 3, 2018		Dept.: Public Works	
SUBJECT: Butler Bridge Lift Station Replacement Project Update		Contact Person for this Item: Michael J Adams, Public Works Director	

INFORMATION BEFORE COUNCIL: On January 3, 2018, City Council authorized the negotiation and execution of a personal services contract with “*The Dyer Partnership Engineers & Planners, Inc.*” in the amount of \$131,710 plus 5% contingency for the engineering design of the Butler Bridge Lift Station Replacement.

FISCAL IMPACT:

Sewer Reserve Fund: 042-420-620520 = \$131,710 + \$6,586 (5%) Design Component

COUNCIL GOAL: Goal: Maintain and improve public infrastructure and facilities.

BACKGROUND: The City of Toledo owns and maintains a wastewater conveyance system that collects, transmits, and treats sanitary wastewater from residential and commercial customers within the City’s limits. The overall management and planning for the wastewater system is guided by the State approved and Council Adopted 2014 Wastewater Facilities Plan.

The repair/replacement of the Butler Bridge Lift Station is identified as a Priority 1 project within the adopted wastewater facilities plan and is considered critical to the overall integrity of the wastewater collection system. Improved integrity of the lift station is necessary to ensure system efficiency as well as to ensure protection of the environment by eliminating the possibility of wastewater sewer overflows.

As a result of the January 3, 2018 authorization, the City hired The Dyer Partnership to perform a Predesign Report for upgrading the Butler Bridge Pump Station. During the review of the current Wastewater Facilities Plan, review of previous Daily Monitoring Reports (DMRs), and discussions with City staff, it was discovered that the projected flow rates identified in the Wastewater Facilities Plan (particularly the Butler Bridge and peak hour wastewater plant flow rates) may not be accurate due to erroneous effluent meters giving inaccurate flow values.

Investigations into the plant recorded flow rates and informational data collection meeting were conducted and meetings between staff and Dyer were held to discuss preliminary findings and to create a plan of action in moving forward. As a result of this information and additional analysis, it is being recommended the scope of this project be modified to include the following:

- Acquire and install new flow meters to accurately collect wastewater flow data from the three wastewater streams that enter the WWTP headworks. These flow meters will also be beneficial to planning future WWTP improvements and for tracking improvements made by Infiltration and Inflow (I/I) work.
- It was determined that the existing Butler Bridge Pump Station, while approaching its intended design life, is still operating as designed without pump failures or deficiencies that would trigger the need for immediate repairs. Perform design/improvements to Butler Bridge Pump Station within a three (3) year planning period, dependent on data collection and system performance.
- Place higher urgency to the replacement of the Butler Bridge Force Main line.

- Continue ongoing efforts to reduce infiltration and inflow into the wastewater collection system. This effort is already ongoing and should be continued.

Although the original approval of this project is \$131,710 (plus potential contingency), there is approximately \$110,000 remaining that can be re-allocated to the recommended course of action identified herein and the attached memorandum.

NEXT STEPS:

Upon consensus of council, staff desires to move forward with the recommendation identified within the attached memorandum from the engineering firm. .

ATTACHMENT(S): *The Dyer Partnership Engineers & Planners, Inc.* Memorandum July 26, 2018

PREPARED & SUBMITTED BY:

Michael J Adams, Public Works Director

MEMORANDUM

Owner: City of Toledo

Project: Butler Bridge Pump Station

Subject: Recommended Action Plan

Date: July 26, 2018

Prepared By: Aaron Speakman, P.E.



This memorandum is to inform the City of Toledo of the recommended action plan for moving forward with the wastewater improvements and the improvements associated with the Butler Bridge Pump Station and Wastewater Treatment Plant (WWTP) flows.

Background

The City hired The Dyer Partnership to perform a Predesign Report for upgrading the Butler Bridge Pump Station. During the review of the current Wastewater Facilities Plan (Civil West 2014), review of previous Daily Monitoring Reports (DMRs), and discussions with City staff, it was discovered that there are concerns with the projected flow rates in the Wastewater Facilities Plan, particularly the Butler Bridge and peak hour wastewater plant flow rates. Investigations into the plant recorded flow rates and informational data collection meeting were conducted with City staff and our office. A memorandum by The Dyer Partnership to the City of Toledo titled *Pump Station Design Flows* was issued on April 20, 2018.

Summary of Findings

The current Facilities Plan lists the following flow rates for the Butler Bridge Pump Station. Refer to page 109 in the Facilities Plan.

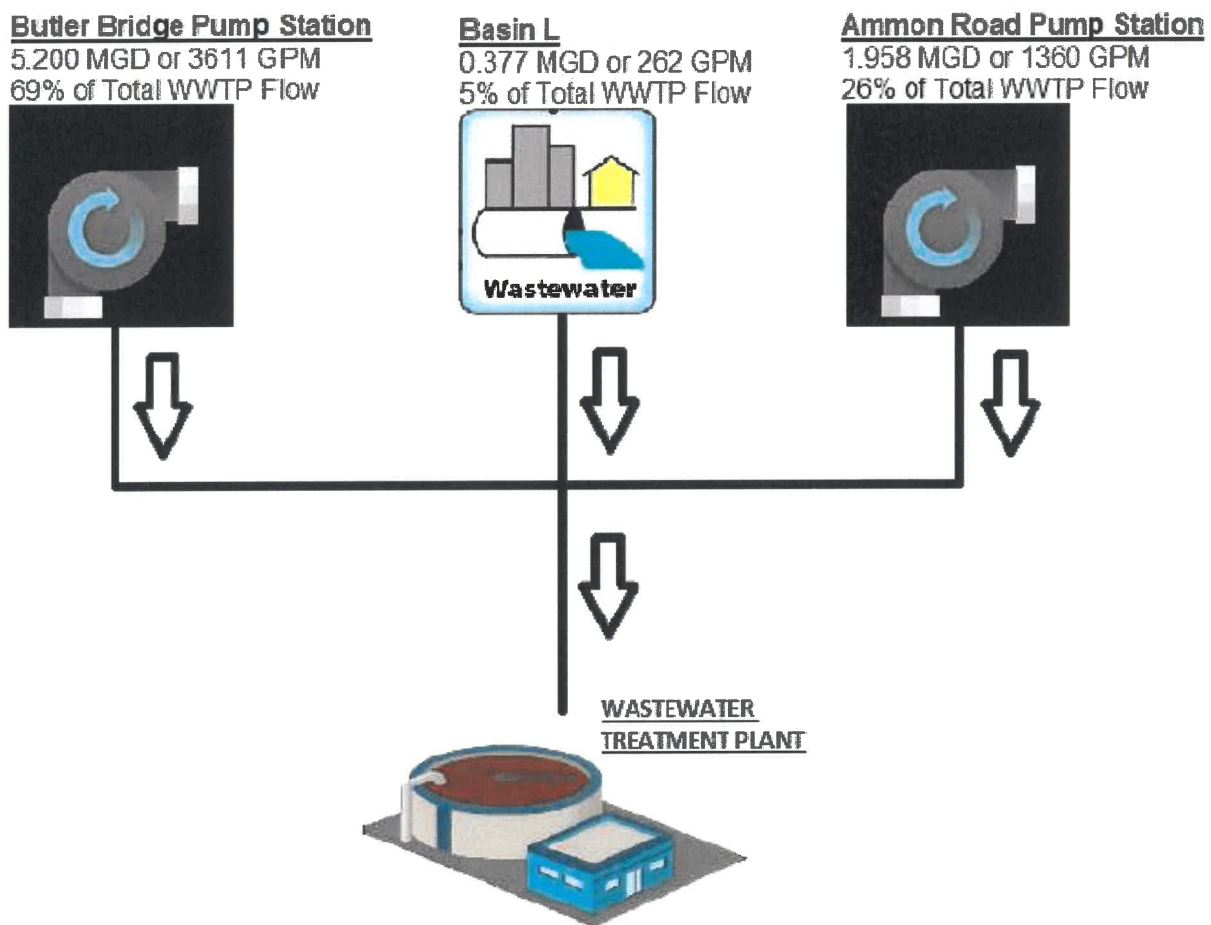
Current Peak Instantaneous Flow Rate: 4.51 MGD.

Projected Peak Instantaneous Flow Rate: 5.23 MGD.

This flow rate was then compared to the total WWTP flow rates. In discussions with City staff, during “normal” flow rates, the Butler Bridge Pump Station conveys roughly fifty percent of the plant flows.

Dyer further evaluated the flow data in the Facilities Plan, and calculated that during peak flow events, Butler Bridge Pump Station may convey up to 69 percent of the total plant flows.

The Facilities Plan states that the projected WWTP flows are 7.53 MGD, as seen on Page 61 of the Wastewater Facilities Plan. This is concerning because if Butler Bridge Pump Station conveys 50-69% of the entire plant flows, and Butler Bridge has a design capacity of 5.23 MGD as listed above, the WWTP should be designed to accommodate a Peak Instantaneous Flow (PIF) of between 7.56 and 10.46 MGD.



Upon reviewing the Facilities Plan, the City submitted DMR data to Dyer for further evaluation. A summary of that data is located below:

High Flow Days Table

Day	Flow (MGD)	Butler Bridge Flow (MGD)	Precipitation (in/day)
1/6/2011	6.113	4.22	1.91
11/24/2016	8.093	5.58	6.12
11/25/2016	7.585	5.23	0.95
12/7/2015	5.456	3.76	2.72
12/8/2015	4.623	3.19	1.6
12/9/2015	4.576	3.16	0.92
12/17/2015	9.000	6.21	5.27
12/18/2015	6.91	4.77	0.79

The table above shows four (4) dates in the past two years, the WWTP has experienced Peak Day Flows which exceed the Facilities Plan recommended future plant Peak Instantaneous Flow rates. For example, the Facilities Plan calculated the PIF for the plant at 6.5 MGD, yet on 12/17/2015 the plant recorded a peak day flow rate of 9.0 MGD.

Extrapolating the peak day flow rate of 9.0 MGD to get an approximate peak instantaneous flow rate to the plant on the date of 12/17/2015, determined that the plant may have experienced a peak instantaneous flow rate of over 11.0 MGD.

An onsite meeting was held on June 14, 2018 at the WWTP. The focus of the meeting was to discuss Dyer's preliminary findings and a plan of action in moving forward. During the meeting it was determined that erroneous effluent meter flows may be giving inaccurate flow values on the plant effluent flow meter as a result of high tides and storm water surcharges causing backpressure on the effluent flow meter. The erroneous flow measurements augment the plant flow data, indicating that the WWTP may experience flows up to 9.0 MGD as was recorded on 12/17/2015. If these plant flows are determined to be erroneous, they should be omitted from the flow projections of the plant, as well as contributing pump stations of Ammon Road and Butler Bridge Pump Station. In summary, the actual flows from Ammon Road Pump Station,

Butler Bridge Pump Station, and collection system Basin L should be combined to determine the actual influent plant flows.

Additional Discussion

In an effort to collect accurate wastewater flow data, flow meters could be installed on the three wastewater streams that enter the WWTP headworks. Magnetic flow meters on the Ammon Road and Butler Bridge Pump station would allow the City to accurately collect flow data for the two pump stations. A flow-tote (a temporary manhole in-pipe metering system) could be installed on the collection system Basin L manhole directly upstream of the WWTP headworks. Totalizing the flow meter data for all three (3) of these meters would provide the City with the necessary flow measurements to accurately determine current and future flows to the WWTP, in addition to the pump stations and Basin L. These flow meters will also be beneficial to planning future WWTP improvements and for tracking improvements made by Infiltration and Inflow (I/I) work.

A preliminary site visit determined that there is adequate room at the WWTP to install vaults and flow meters for the Ammon Road and Butler Bridge Pump Stations. The meters would be located on the pump station's respective force mains on the WWTP site property, adjacent to the influent screening facility. Ideally the meters would be installed inside a vault or behind a retaining wall structure, as the site has a significant grade on the ground surface. The meters will be hard wired to the existing WWTP SCADA system, where the flow data would be collected and stored. Preliminary discussions with the City's system integrator, The Automation Group (T.A.G.) indicated that this alternative was feasible. The integrator would be responsible for integration of the meters into the City's WWTP SCADA system.

Additional flow data collection will take considerable time, and discussions with City staff regarding the urgency of the improvements required to the Butler Bridge Pump Station were conducted. It was determined that the existing Butler Bridge Pump Station, while approaching its intended design life, is still operating as designed without pump failures or deficiencies that would trigger the need for immediate repairs. At this time, Dyer and the City did not foresee issues with postponing the pump station repairs, collecting accurate flow data over the next few years (preferably two (2) wet weather seasons), and then reconstructing the pump station with correct flow projections. The City did indicate that the Butler Bridge Pump Station force main is of concern, and the condition of the main is suspect. The City knows of multiple repair efforts to

repair the line within the past few years. Staff indicated that when bypassing of the Butler Bridge Pump Station is conducted with a bypass pump, the only recent reported sewer overflow was a result of the existing force main failing and not the actual pump station failing. As a result of discussions with the City, the replacement of the Butler Bridge force main should receive a higher ranking of urgency than the actual pump station. Accurately sizing the Butler Bridge Pump Station and the WWTP improvements is critical in ensuring pumps, motors, and other critical infrastructure are sized correctly, and not oversized, costing the City increased capital and operational costs throughout the planning period.

The existing Butler Bridge Pump Station has a firm pumping capacity of approximately 3,130 GPM. The previously recommended force main diameter (inside pipe diameter) was 14-inches. This would result in the force main having a velocity of approximately 6.52 feet per second. The maximum recommended design velocity for a 14-inch pipe is 10 feet per second, which occurs with a flow rate of 4,800 GPM. If the City pursues the use of HDPE piping material for the force main, DR 11 HDPE would have an inside diameter of approximately 14.52-inches, which would allow a maximum flow rate of 5,200 GPM, at 10 feet per second velocity. A 14-inch pipe, whether HDPE or another pipe material increases the capacity over the existing force main by approximately 53%.

Minimum flushing velocities also need to be evaluated for force mains. A 14-inch force main will need to have a flow rate of approximately 1,000 GPM in order to achieve 2-feet per second flushing velocity. When the new pump station is constructed, the pump PLC and controls can be programmed to require the pump to ramp up in speed to achieve flushing velocities periodically, and ramp down to optimum flow rates when the line is not being flushed.

Recommendations

Based upon our review of the existing pump station including the station's structural integrity and the need for additional flow data, we recommend the following plan of action for the Butler Bridge Pump Station Upgrades and WWTP:

1. Install flow meters on all influent lines to the WWTP Headworks; including Ammon Road Pump Station and Butler Bridge Pump Station force mains, and the gravity sewer line from Basin L. The flow meters should be installed as soon as possible.

2. Monitor flows to the WWTP to determine accurate flows. Monitoring is recommended to extend for a timeframe that covers (at minimum) one typical wet weather flow period. Monitoring should occur as soon as possible. The flow monitoring should include the new flow meters as described in Item #1 of recommended action plan.
3. Replace the Butler Bridge Pump Station force main with 14-inch inside diameter HDPE, DR 11 pipe from the station to the plant headworks. The force main should be replaced within the year or as funds allow. Current funds allocated for engineering design of the Butler Bridge Pump Station Design could be appropriated to the implementation of the recommendations identified in this memorandum.
4. Continue ongoing efforts to reduce infiltration and inflow into the wastewater collection system. This effort is already ongoing and should be continued.
5. Perform design/improvements to Butler Bridge Pump Station within a three (3) year planning period, dependent on data collection and system performance. In the event the condition of the pump station changes, acceleration of this improvement project may be warranted.

CITY OF TOLEDO
REQUEST FOR COUNCIL CONSIDERATION

DATE ACTION REQUESTED: August 7, 2018			
Ordinance ☐	Resolution ☐	Motion ☒	Information ☐
Date Prepared: August 3, 2018		Dept.: Administration	
SUBJECT: Review/Modifications to TMC 8.08.070 Temporary Occupancy for Recreation Vehicles		Contact Person for this Item: Craig Martin, City Manager	

RECOMMENDATION: Council discuss and provide consensus for staff to review and present modifications or revisions to the Municipal Code regarding use of recreational vehicles for temporary living quarter.

BACKGROUND: The City has in the past issued temporary use permits for use of Recreational vehicles as temporary living quarters within the City limits with requirements and conditions specified under the Code. The code currently limits use to two (2) six month terms upon approval by the City Council. During recent Council approval of the allowed second six month term, Council members expressed an interest in reviewing this code to possibly amend to allow for a longer time period if certain conditions are met and maintained during the occupancy period.

Staff has prepared some information regarding the process and previous permits issued to see if Council desired further action to modify or amend this ordinance to allow for a longer time period.

PREPARED BY:



Craig Martin, City Manager

SUBMITTED BY:



Craig Martin, City Manager

ORDINANCE NO. 1310

AN ORDINANCE REPEALING ORDINANCE 1212, TOLEDO MUNICIPAL CODE CHAPTER 8.08 (RECREATIONAL VEHICLES) BY EXPANDING THE CHAPTER AND DECLARING AN EMERGENCY

WHEREAS, the City of Toledo adopted Ordinance 1212, the Toledo Recreational Vehicle Ordinance codified as Title 8.08 of the Toledo Municipal Code, on January 4, 1993;

WHEREAS, Ordinance 1286 had a codified Chapter 17.76 (Temporary Use Permits) that was deleted by Ordinance 1307 on July 6, 2005, and has been expanded and entered as part of this ordinance;

WHEREAS, with the passage of time, various code sections require updating;

WHEREAS, the Toledo Planning Commission and the Community Development Department has requested updates;

WHEREAS, the Toledo Planning Commission prepared a draft of the code revisions titled Temporary Uses and Structures and Recreational Vehicles over a period of six months and a hearing was held February 8, 2006, at which time, the Planning Commission sent forward the proposed ordinance to the Toledo City Council for public hearing and adoption;

WHEREAS, the Toledo City Council held a public hearing after notification on the proposed ordinance on March 1, 2006, and the City Council has determined that a revision is in the best interest of the citizens of Toledo;

WHEREAS, the implementation of this ordinance as soon as possible is in the public interest and necessary for the peace, health, convenience, and safety of the inhabitants of the City of Toledo.

NOW, THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:

Section 1. The existing sections of Title 8.08 of the Toledo Municipal Code are repealed and are replaced to read as follows:

TEMPORARY USES, TEMPORARY STRUCTURES, AND RECREATIONAL VEHICLES

8.08.010 Purpose

To regulate placement, restrict time limits, control aesthetics, limit nuisances, and generally protect health, safety, and welfare considerations the City of Toledo recognizes that certain short term uses, structures, and recreational vehicle placements are not allowed as outright permitted uses. A temporary permit may be issued for up to six (6) months by the City Manager or other designated City staff member for only the following uses:

- A. In conjunction with on-site construction, only if a building permit has been issued for such construction, and the permit is active;
- B. Security measures that need to be taken for a temporary situation;
- C. A temporary place to conduct business;
- D. To meet special housing needs, in conjunction with an existing residence. The applicant must carry the burden of proof to show a permanent alternative is being sought and the temporary use provides the best or only alternative in the interim period;
- E. Special event structures; or
- F. Business office for the sale of property within a subdivision.

8.08.020 Definitions

"Adequate Sanitation Facilities" means any public restroom, private restroom, or any portable fixture approved by either the Lincoln County Sanitarian or a Lincoln County Plumbing Inspector.

"City Manager" means the City Manager of the City of Toledo or designee(s).

"Recreational Structure" means a campground structure with or without plumbing, heating or cooking facilities intended to be used by any particular occupant on a limited-time basis for recreational purposes and may include yurts, cabins, fabric structures, or similar structures as further defined, by rule, by the City Manager. A structure intended for removal or demolition within a prescribed time not exceeding six (6) months.

"Recreational Vehicle (RV)" means a vehicular-type living unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. Types of recreational vehicles include but are not limited to, travel trailer, camping trailer, camper, camping van, and motor home.

"Special Event Structure" means a structure occupied in affiliation with an event recognized by the City of Toledo, State of Oregon, or United States related to a holiday, festival, or celebration, including, but not limited to Christmas, Independence Day, Toledo Summer Festival, Toledo Main Street Antique Fair, or carnivals or fairs. Special event vendors affiliated with the event organizers are exempt from obtaining a temporary permit, but are limited to no more than thirty (30) days prior to and seven (7) calendar days following the event.

"Structure" means a building of any kind or any piece of work artificially built up or composed of parts joined together in some manner and which requires location on the ground or which is attached to something having a location on the ground.

"Temporary Living Quarter" means recreational vehicle, as defined in this ordinance, used for

sleeping and/or living purposes and has water and sewer, but is intended for short time use (six months).

"Temporary Structure" means a structure without any foundation or footings and that is removed when the designated time period (usually six months), activity, or use for which the temporary structure was erected has ceased.

"Temporary Use" means a use established for a limited duration with the intent to discontinue the use upon the expiration of the permitted time of six (6) months.

8.08.030 Fees

An appropriate application fee shall be set by city council resolution for a temporary permit. The application fee and renewal fee must be paid concurrent with the application. Renewal fees will be double the original fee. A request to waive fees for recognized non-profit applicants must be made in writing to the City Council.

8.08.040 Permit Required

All temporary uses including the uses of an RV as a living quarter or for conducting business within the City of Toledo is prohibited unless the owner of land (applicant) on which it will be parked first obtains a temporary permit from the City. Use of an RV as a temporary living quarter in conjunction with a visitation of less than fourteen (14) days at an existing residence does not require a temporary permit. Using the Type I procedure under Toledo Municipal Code Section 19.08, the City shall approve, approve with conditions, or deny a temporary use permit based on findings that all of the criteria are satisfied.

8.08.050 Application Requirements

- A. The application form shall be provided by the City of Toledo and the applicant shall set forth on the site plan the following:
 - 1. The location map showing the area in the City where the use will occur;
 - 2. The proposed siting of the temporary use or RV on property; and
 - 3. The provisions for water, sewer, and electrical service.
- B. The applicant must indicate the period of time the permit is sought and the reason for the use of a temporary structure or RV instead of a permanent structure. The applicant must propose alternatives to the temporary permit in a permanent solution plan.

8.08.060 Special Event Structures

- A. Special event structures may be erected in conjunction with a recognized federal, state, or local holiday, festival, and celebration if the following are met:

1. The time limit for such structures is no longer than thirty (30) days prior to and seven (7) calendar days after the special event.
 2. The permission of the property owner must be obtained.
 3. The person or persons responsible for the special event structure shall also be responsible for the maintenance of the grounds and shall have a trash receptacle available.
 4. Adequate sanitary facilities must be available to the site.
 5. The person or persons responsible for the temporary structure shall sign an agreement that the provisions of this subsection shall be complied with.
 6. The structure must not interfere with the provisions of parking for the permanent use on the site.
- B. An application for a special event structure must be made on a form prescribed by the Community Development and Planning Department. Failure to fill out all needed items will result in the rejection of the application until such time as all items are provided. The City Manager shall issue the permit for a special event structure if all the conditions outlined in Section 8.08.060(A) are met.

8.08.070 Temporary Living Quarter

- A. A permit to allow a person or persons to occupy a temporary living quarter may be granted subject to the following conditions:
1. The permit must be in conjunction with a valid, active building permit, security dwelling, or for a proven medical hardship.
 2. The time limit shall be no longer than six (6) months from issuance. After the expiration of the time limit, the Recreational Vehicle (RV) used for the temporary living quarter is subject to renewal provisions in Section 8.08.100.
 3. The RV used as the temporary living quarter must be self-contained for sanitary sewer or connected to municipal sewer and water.
 4. Any facility used for temporary living quarter must meet the definition of a RV as contained in this ordinance.
 5. Temporary living situations for non-residential projects shall not use a job shack or other such structure instead of an RV as the living quarter.
 6. Prior to the issuance of a temporary living quarter permit, the applicant shall sign

an agreement to comply with the provision of this section.

7. If the property subject to the temporary living quarter permit is not the owned by the applicant, written permission of the property owner is required. An application for a temporary living quarter permit must be made on a form prescribed by the Community Development and Planning Department. Failure to fill out all needed items will result in the rejection of the application until such time as all items are provided. The City Manager or designate shall issue the permit for the temporary living quarter if all conditions outlined in Section 8.08.070 (A) are met.

8.08.080 Temporary Structures

A temporary structure not associated with a special event may be erected subject to the following:

- A. The permit, if approved, shall be issued for a period not to exceed six (6) months. Upon like application and approval, the permit may be renewed for an additional six (6) months in accordance with Section 8.08 .100. Under no circumstances shall any permit be issued under this section exceed one (1) year from the date the permit was first issued.
- B. Temporary structures are limited to commercial and industrial zoned properties.
- C. An application for a temporary structure must be accompanied by the following:
 1. Written permission from the property owner.
 2. A site plan, drawn to scale, showing:
 - a. The proposed location of the temporary structure;
 - b. Existing buildings;
 - c. Existing parking and proposed parking for the temporary structure;
 - d. Access(es) to the parking areas;
 - e. Any additional structures, seating areas, and amenities associated with the temporary structure;
 - f. The location and size of trash receptacles;
 - g. Utilities;
 - h. Existing signs;
 - i. Temporary structure building elevations or photos;

- j. The colors of the temporary structure and signing.
 - k. Adequate sanitation facilities must be available to the site.
- D. In addition to the above requirements, the applicant for a temporary structure permit must submit the following:
- 1. An agreement stating that the applicant is aware of the limitations and conditions attached to the granting of the permit and agrees to abide by such limitations and conditions.
- E. An application for a temporary structure permit must be made on a form prescribed by the Community Development and Planning Department. Failure to fill out all needed items will result in the rejection of the application until such time as all items are provided.
The City Manager shall issue the permit for the temporary structure if all conditions outlined in Section 8.08.080(B-D) are met.
- F. If the temporary structure permit is approved, the applicant must obtain a City of Toledo Business License.

8.08.090 Permit Revocable

Any temporary permit will be revoked on twenty-four (24) hour notice by the City Manager, if, after inspection of the structure or RV, any of the following reasons are found:

- A. Lacks proper sanitary facilities.
- B. Is dangerous to the public health and safety.
- C. Has become a public nuisance due to conditions, location, or use.
- D. Noncompliance with conditions set forth in granting the permit.
- E. Approval being obtained by fraud or misrepresentation.

8.08.100 Renewal

Except those uses allowed in Section 8.08.060 (Special Event Structures), six (6) months is the maximum time for which a temporary permit may be issued by City staff. If the applicant can show that a permanent solution will be forthcoming, the applicant may apply to the City Council for one renewal of the temporary permit. An applicant is only allowed to apply for one renewal. The council will determine the length of time during which the renewal will be valid up to a maximum of six (6) months. The City Council will consider the renewal application at a public meeting. Before council consideration, affected landowners within one hundred (100) feet of the subject property boundaries shall be notified by first-class mail of the renewal application, and

provided at least a fifteen (15) day comment period before the public meeting. Any subsequent applications by the same property owner within three years of the expiration of the temporary permit must be approved by the City Council following the same process and subject to the same fees as a temporary permit renewal.

8.08.110 Permits Not Transferable

Permits authorized by this chapter are not transferable to another person or location unless approved by the City Council.

8.08.120 Violation - Penalty

Violations of this chapter shall constitute a Class A infraction.

Section 2. Emergency Clause. Inasmuch as the provisions herein contained are necessary for the preservation of the peace, health, convenience, and safety of the inhabitants of the City of Toledo, Lincoln County, Oregon, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED by the City Council of the City of Toledo, Lincoln County, Oregon, on the 1st day of March, 2006.

ATTEST:

APPROVED:

City Recorder

Mayor

CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 6, 2018			
Ordinance ☐	Resolution ☐	Motion ☒	Information ☐
Date Prepared: May 29, 2018		Dept.: Administration	
SUBJECT: Temporary Use Permit TTP-2-17 (1152 NW A Street)		Contact Person for this Item: Craig Martin, City Manager	

RECOMMENDATION: After reviewing the application and hearing all public comments, Council should make a motion to either 1) approve the request to extend the deadline for Temporary Use Permit #TTP-2-17 for up to six months or 2) deny the request to extend the deadline for Temporary Use Permit #TTP-2-17.

FISCAL IMPACT: None

COUNCIL GOAL: Quality of Life: Maintain and enhance characteristics that assure Toledo is a good place to be.

BACKGROUND: Dennis Steindl and the Abundant Life Center have requested an extension of the Temporary Use Permit approved by Staff on October 31, 2017. The permit allowed the placement of Mr. Steindl's recreational vehicle (RV) to be allowed for temporary housing at 1152 NW A Street, in order for Mr. Steindl to provide maintenance, grounds, and security service to the Abundant Life Center. In accordance with Toledo Municipal Code (TMC) 8.08.070 staff reviewed and approved the request for use of the RV as a temporary residence, which expired on May 1, 2018 (see 2017 Application and Approval Letter). On May 3, 2018, staff sent notice to both Mr. Steindl and the Abundant Life Center notifying them of the deadline date and requirement to remove the RV or obtain a renewal permit.

FACTS:

1. On May 8, 2018, Dennis Steindl and the Abundant Life Center submitted an application and application fee of \$150 to renew the deadline date on TTP-2-17 (see 2018 Renewal Application).
2. The RV is located at 1152 NW A Street, just to the south of the Abundant Life Center at 1154 NW A Street. The entire site (Assessor's Map No. 11-10-8 CA Tax Lots 8200, 8300, 8400, and 8500) contain the church, school, parsonage, and associated parking lots. The property is located in the General Residential (RG) Zone and surrounded by the RG Zone on all sides. Single-family residential homes boarder the site.
3. As required in TMC 8.08.100, notification to 18 surrounding property owners were mailed May 10, 2018, and provided a 15 day comment period before the public meeting. As of May 29, 2018, one comment was received from neighbor Ann Edmondson, stating that she was not opposed to the extension, but the unit has been parked at the site for well over six months. She added that it is good to have this housing option, but noted that there are other RVs being used for housing in the general area and they should also obtain the proper permits. <***Identify other comments submitted***>

4. Toledo Fire Chief, Police Chief, Public Works Director, and City Manager reviewed the request. The following comments were submitted:
 - a. Public Works Director: No concerns at this time for extension. Refer to original approval for any/all outstanding issues.
 - b. Police Chief: How long has the RV been at the same location? What is the future plan as per ordinances?
 - c. City Manager: Location and use provide minimal impact to surrounding properties and use.
5. The applicant has indicated that the RV has water, sewer, and electrical services and has proper access to the unit. He stated that the RV is self-contained and in good shape.
6. TMC 8.08.100 establishes the standards to renew a temporary use permit. If the applicant can show that a permanent solution will be forthcoming, the applicant may apply to the City Council for one renewal. The applicant is only allowed to apply for one renewal. The City Council can determine the length of time for the extension, for a maximum of six months. (see TMC Chapter 8.08)

Attachments: 1. Temporary Use Permit Application (dated 9-27-17) and Approval Letter (dated 11-7-17)
2. Temporary Use Permit Renewal Application (dated 5-8-18)
3. TMC Chapter 8.08 - Temporary Uses, Temporary Structures, and Recreational Vehicles
4. City Council Temporary Use Permit Extension- Public Hearing Procedures

ALTERNATIVES:

The City Council has the option of 1) approving the extension request (with or without conditions of approval) for six additional months, not to exceed December 6, 2018, 2) approving the request (with or without conditions of approval) for any period of time less than six months, or 3) deny the extension request.

PREPARED BY:

Name, Title

SUBMITTED BY:

Craig Martin, City Manager



CITY OF TOLEDO

Architect rendering, 1938

NOTICE OF A PUBLIC MEETING

The following request will be reviewed by the Toledo City Council at a public meeting on June 6, 2018, at 7:00 p.m. in the Council Chambers at City Hall, 206 N. Main Street, Toledo, Oregon

The applicants, Dennis Steind//Abundant Life Center, have requested an extension of the Temporary Use Permit approved by staff on October 31, 2017 (City File No. TTP-2-17). The permit allows the placement of a recreational vehicle to be used on the property at 1152 NW A Street for temporary housing while providing maintenance and security services to the Abundant Life Center (Lincoln County Assessors Map 11-10-8CB Tax Lots 8200, 8300, 8400, and 8500). The applicant requests an extension of six additional months. In accordance with Toledo Municipal Code 8.08, one renewal can be granted by the City Council if the applicant shows a permanent solution will be forthcoming.

Written comments regarding this request will be accepted by staff until May 29, 2018, and can be sent to City Manager Craig Martin at City Hall:

206 N. Main Street
PO Box 220
Toledo, OR 97391
FAX: (541) 336-3512
E-Mail: planning@cityoftoledo.org

The City Council will also accept oral or written testimony at the June 6, 2018, public meeting.

The application and staff recommendation can be reviewed at City Hall at no cost and copies of any documents can be provided at a reasonable cost. If you have questions regarding the request, contact Craig Martin at (541) 336-2247 x 2020 for further information. You are receiving this notice because you own property within one hundred feet of the subject property.

Relevant Toledo Municipal Code Requirements: Chapter 8.08 Temporary Uses, Temporary Structures, and Recreational Vehicles

8.08.070 Temporary living quarter.

- A. A permit to allow a person or persons to occupy a temporary living quarter may be granted subject to the following conditions:
1. The permit must be in conjunction with a valid, active building permit, security dwelling, or for a proven medical hardship.
 2. The time limit shall be no longer than six months from issuance. After the expiration of the time limit, the recreational vehicle (RV) used for the temporary living quarter is subject to renewal provisions in Section 8.08.100.

City Hall P.O. Box 220 206 N. Main Street Toledo, Oregon 97391

(541) 336-2247 Fax: (541) 336-3512 TTD: 1-800-735-2900

An Equal Opportunity Employer

3. The RV used as the temporary living quarter must be self-contained for sanitary sewer or connected to municipal sewer and water.
 4. Any facility used for temporary living quarter must meet the definition of a RV as contained in this chapter.
 5. Temporary living situations for nonresidential projects shall not use a job shack or other such structure instead of an RV as the living quarter.
 6. Prior to the issuance of a temporary living quarter permit, the applicant shall sign an agreement to comply with the provision of this section.
 7. If the property subject to the temporary living quarter permit is not owned by the applicant, written permission of the property owner is required.
- B. An application for a temporary living quarter permit must be made on a form prescribed by the community development and planning department. Failure to fill out all needed items will result in the rejection of the application until such time as all items are provided. The city manager or his designate shall issue the permit for the temporary living quarter if all conditions outlined in subsection A of this section are met.

8.08.090 Permit revocable.

Any temporary permit will be revoked on twenty-four (24) hour notice by the city manager, if, after inspection of the structure or RV, any of the following reasons are found:

- A. Lacks proper sanitary facilities.
- B. Is dangerous to the public health and safety.
- C. Has become a public nuisance due to conditions, location, or use.
- D. Noncompliance with conditions set forth in granting the permit.
- E. Approval being obtained by fraud or misrepresentation.

8.08.100 Renewal.

Except those uses allowed in Section 8.08.060 (Special event structures), six months is the maximum time for which a temporary permit may be issued by city staff. If the applicant can show that a permanent solution will be forthcoming, the applicant may apply to the city council for one renewal of the temporary permit. An applicant is only allowed to apply for one renewal. The council will determine the length of time during which the renewal will be valid up to a maximum of six months. The city council will consider the renewal application at a public meeting. Before council consideration, affected landowners within one hundred feet of the subject property boundaries shall be notified by first class mail of the renewal application, and provided at least a fifteen (15) day comment period before the public meeting. Any subsequent applications by the same property owner within three years of the expiration of the temporary permit must be approved by the city council following the same process and subject to the same fees as a temporary permit renewal.



COPY

June 7, 2018

Dennis Steindl
1152 NW A Street
Toledo, OR 97391

and

Abundant Life Center, Toledo Assembly of God
Attn: Lead Pastor Charles F. Springer
1154 NW A Street
Toledo, OR 97391

RE: Temporary Trailer Permit (TTP-2-17)
1152 NW A Street, Toledo OR
Lincoln County Assessors Map No. 11-10-8 CB Tax Lots 8200, 8300, 8400, and 8500

Your request to extend the deadline on Permit #TTP-2-17 (allowing a recreational vehicle for use as a temporary residence) was reviewed and approved by the Toledo City Council on June 6, 2018. The Council authorized the extension of your temporary use permit for an additional six months, to expire on December 6, 2018. Conditions of approval placed on the original permit will still apply, in addition to the requirements standards set in the Toledo Municipal Code, as follows:

1. The permit must be in conjunction with a valid, active building permit, security dwelling, or for a proven medical hardship.
2. The time limit shall be no longer than six months from issuance.
3. The RV used as the temporary living quarter must be self-contained for sanitary sewer or connected to municipal sewer and water.
4. Any facility used for temporary living quarter must meet the definition of a RV as contained in this chapter (*TMC 8.08*).
5. Temporary living situations for nonresidential projects shall not use a job shack or other such structure instead of an RV as the living quarter.
6. Post the enclosed approval notice in a street-side window of the RV.

The temporary trailer permit can be revoked on twenty-four hour notice by the City if the structure: 1) lacks sanitary facilities, 2) is dangerous to public health and safety, 3) has become a public nuisance due to conditions, location, or use, 4) noncompliance with the above conditions, or 5) fraud or misrepresentation has occurred.

COPY

This permit will expire on December 6, 2018, and cannot be renewed beyond that date.

If you have any questions concerning this decision, please call me at 541-336-2247 extension 2020 or Planning Assistant Arlene Inukai at extension 2130.

Sincerely,

Craig Martin
City Manager

enc: Approval Notice

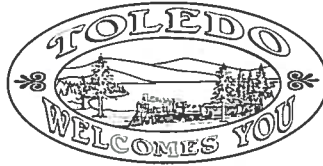
cc: Toledo Police Department (w/o enclosure)

COPY

CITY OF TOLEDO TEMPORARY USE PERMIT

No. TTP-2-17

1152 NW A Street



Approved: June 6, 2018

Expires: December 6, 2018



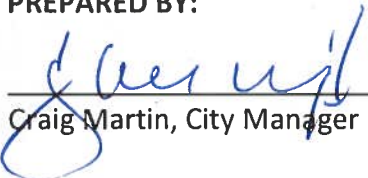
CITY OF TOLEDO
REQUEST FOR COUNCIL CONSIDERATION

DATE ACTION REQUESTED: August 7, 2018			
Ordinance ☐	Resolution ☐	Motion ☒	Information ☐
Date Prepared: August 3, 2018		Dept.: Administration	
SUBJECT: City Council Minutes and Record Keeping Procedures		Contact Person for this Item: Craig Martin, City Manager	

RECOMMENDATION: Council discuss methods and procedures for records of public meetings including Executive (closed meeting) sessions.

BACKGROUND: Recent comments and concerns have been raised regarding the level of detail continued in certain minutes of Council proceedings including Executive Sessions. The City Council has previously stated they did not want audio recordings made of the executive closed sessions. Staff has researched information on the requirements of the record of executive sessions and included applicable excerpts from the League of Oregon Cities publications. Council can discuss if they wish to have audio recordings retained of the executive sessions and any other changes to the minutes and or publishing of same desired.

PREPARED BY:



Craig Martin, City Manager

SUBMITTED BY:



Craig Martin, City Manager

78th ANNUAL CONFERENCE

November 13-16, 2003 / Eugene, Oregon

Public Records & Open Meetings:
Guidelines for
City Officials

THOMAS SPONSLER, ESQ.

BEERY & ELSNER LLP
ATTORNEYS AT LAW

PORTLAND, OREGON

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SECTION 1 – OREGON PUBLIC MEETINGS LAW

INTRODUCTION

The Public Meetings Law, found in Oregon Revised Statutes (ORS) 192.610 to 192.690, was enacted by the Oregon legislature in 1973. It legally establishes the state policy that the public is entitled to know how public organizations operate. Almost all deliberations and decisions of public bodies are open to attendance by interested persons.

The Public Meetings Law (meetings law or law) has been amended many times at subsequent legislative sessions. In 1993 the Oregon Government Standards and Practices Commission was granted authority to review complaints and impose civil penalties for violations of the executive sessions provisions.

The purpose of this material is to summarize the major provisions that apply to city councils. It borrows heavily from the *Attorney General's Public Records and Meetings Manual* (AGM) published September 15, 1997.

A. POLICY

The Oregon policy of open decision making is established by ORS 192.620:

The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly.

B. PUBLIC BODIES

The Public Meetings Law applies not only to the state, but also the cities and counties despite any conflicts with their charters, ordinances or other rules. Cities, counties and other public bodies may impose greater requirements than those of the law by their charters, ordinances, administrative rules or bylaws.

1. Governing Bodies

The Public Meetings Law applies to meetings of the “governing body of a public body.” ORS 192.630(1). A “public body” is the state or local government council, board, commission, bureau, committee, subcommittee or advisory group. ORS 192.610(4). If two or more members of any public body have “the authority to make decisions for or recommendations to a public body on policy or administration,” they are a “governing body” for purposes of the meetings law. ORS 192.610(3).

Thus, the city council (council), planning commission, and all citizen advisory commissions and committees are “governing bodies.” A subcommittee of a commission or committee can also be a “governing body” if it is authorized to make decisions for or to advise the council.

a. Public Body Decisions

A committee or commission that has authority to make decisions for the city on “policy or administration” is a governing body. ORS 192.610(3). A subcommittee that has authority only to gather information for the full council, commission or committee is not a governing body. However, if the subcommittee is vested with the authority to take action on a city issue of policy or administration, then it is a governing body under the meetings law.

b. Recommendations to Council

An advisory committee, subcommittee, task force or other official group that has authority to make recommendations to the council on policy or administration also is a governing body. ORS 192.610(3).

“Public body” does not include the manager or other individual city official. For example, an advisory committee appointed by the manager or police chief is *not* a governing body subject to the law if the advisory committee reports only to the appointing official. However, if the individual official lacks authority to act on the advisory group's recommendations, and must pass those recommendations unchanged to the council, then the meetings law applies to the advisory group.

If an advisory body is created by council ordinance, resolution or other action to advise the council, the fact that its members are all private citizens is irrelevant. The meetings law applies to private citizens, employees and others without decision-making authority when they serve on a group that is authorized to advise the council.

2. Private Bodies

The meetings law does not cover private bodies. A private body does not become subject to the meetings law merely because it receives public funds, contracts with governmental bodies or performs public services.

C. MEETINGS SUBJECT TO THE LAW

1. Public Meetings

The Public Meetings Law defines a meeting as the convening of any of the “governing bodies” described above “for which a quorum is required in order to make a decision or to deliberate toward a decision *on any matter.*” ORS 192.610(5) (emphasis added)

a. Quorum Requirements

The meetings law does not define “Quorum.” Quorum is defined by city charters as a majority of the councils. Council rules are adopted by ordinance or resolution and confirm that a quorum usually consists of four councilors.

A gathering of less than a quorum is not a meeting under the meetings law. The law applies to committees, subcommittees and other advisory groups that are charged by the council with making recommendations. The recommendations must be the result of formal votes taken at meetings at which a quorum was present.

Staff meetings are not subject to the meetings law because they are not “governing bodies” and quorums are not required. Similarly, the law does not apply to individuals who are authorized to make recommendations. However, if staff meets with a quorum of the council or a city commission, committee or subcommittee to discuss matters of “policy or administration,” or to clarify a decision or direction for staff, the meeting is within the scope of the law. ORS 192.610(3)

b. Meetings and Social Gatherings

The Public Meetings Law applies to all city meetings for which a quorum is required to make a decision or deliberate toward a decision on any matter. Even meetings for the sole purpose of gathering information upon which to base a future decision or recommendation are covered. Hence, information gathering and investigative activities of a city body are subject to the law.

If a quorum of the governing body gathers to discuss matters outside its jurisdiction, there is no “meeting” under the meetings law. Jurisdiction is determined by examining the authority granted to particular governing body and any ordinances, resolutions or directives governing that authority.

The law does not cover purely social meetings of board or committee members. In *Harris v. Nordquist*, 96 Or 19 (1989), the court concluded that social gatherings at which school board members sometimes discussed “what’s going on at the school” did not violate the meetings law. The *purpose* of the meeting determines if the law applies. However, a purpose to deliberate on any matter of policy may arise *during* a social gathering and lead to a violation. When a quorum is present, members should avoid any discussions of official business during social gatherings. Some citizens may see social gatherings as a subterfuge for avoiding the law.

c. Electronic Communication

The Public Meetings Law expressly applies to telephonic conference calls and “other electronic communication” meetings of governing bodies. ORS 192.670(1). Notice and opportunity for public access must be provided when meetings are conducted by electronic means. For non-executive session meetings, the public must be provided at least one place to listen to the meeting by speakers or other devices. ORS 192.670(2). Special accommodations may be necessary to provide accessibility for persons with disabilities. The media must be provided such access for electronic executive sessions, unless the executive session is held under a statutory provision permitting its exclusion.

Communications between and among council members on electronically linked personal computers may be subject to the meetings law.

2. Exempt Meetings

The definition of “meeting” under ORS 192.610(5) does not include on-site inspections of projects or programs, and gatherings of national, regional or state associations to which the public body or its members belong.

D. LEGAL REQUIREMENTS

1. Notice

The Public Meetings Law requires public notice of the time and place of meetings. This requirement applies to regular, special and emergency meetings. ORS 192.640. The public notice requirements apply to *any* “meetings” of the board, and committees, subcommittees and advisory committees. Regular meeting notice must be *reasonably calculated* to give actual notice of the time and place of the meeting “to interested persons including news media that have requested notice.” ORS 192.640(1). Notice must be given to persons and media that have stated in writing that they wish to be notified of every meeting.

If the meeting will consist of only an executive session, notice still must be given to members of the board, the general public and news media that have requested notice. The notice must also state the specific legal section authorizing the executive session. ORS 192.640(2).

To help satisfy the accessibility requirements of ORS 192.639(5) and the Americans with Disabilities Act, the notice may provide the name of a person and telephone number (including TDD number) at the city to contact to request an interpreter for the hearing impaired or for other communication aids.

The notice for each meeting must “include a list of the principal subjects anticipated to be considered at the meeting.” ORS 192.640(1). The list should be specific enough to permit members of the public to recognize the matters in which they are interested; ordinarily this can be met by distribution of an agenda. The agenda need not go into detail about subjects scheduled for discussion or action, but should be sufficiently descriptive so interested persons can understand agenda topics.

The meetings law does not require that every proposed item of business be described in the notice. The law requires a reasonable effort to inform the public and interested persons of the nature of the more important matters (“principal subjects”) coming before the body. The council may consider additional “principal subjects” arising too late to be included in the notice. The listing of principal subjects “shall not limit the ability of the governing body to consider additional subjects.” ORS 192.640(1).

The purpose of meeting notice is two-fold: general notice to the public at large and *actual* notices to specifically interested persons.

a. Regularly Scheduled Meetings

News media requesting notice *must* be given notice. Paid advertising is *not* required. If the city is aware of persons having a special interest in a particular action, those persons generally should be notified. This is not required if such notification would be unduly cumbersome or expensive.

b. Special Meetings

At least 24 hours' notice is required for special meetings. This may be accomplished by press releases or phone calls to the media. The city should make reasonable attempts to notify interested persons either by mail or telephone. News media requesting notice must be notified.

c. Emergency Meetings

An emergency meeting is a special meeting called on less than 24 hours' notice. An "actual emergency" must exist, and the minutes must describe the emergency justifying less than 24 hours' notice. ORS 192.640(3). The council must identify the reason the meeting could not be delayed to allow at least 24 hours' notice. The law requires that "such notice as is appropriate to the circumstances" be given for emergency meetings. The city must attempt to contact the media and other interested persons to inform them of the meeting. Generally, such contacts are made by telephone.

The Oregon Court of Appeals stated in *Oregon Association of Classified Employees v. Salem-Keizer*, 95 Or App 28 (1989) that it will closely scrutinize any claim of an "actual emergency." The "emergency" must relate to the matter to be discussed at the emergency meeting. An actual emergency on one matter does not "justify a public body's emergency treatment of all business coming before it at approximately the same time." 95 Or App at 32. Nor does the convenience or inconvenience of councilors provide justification for an emergency meeting.

2. Space and Location

Public bodies should consider the probable public attendance and meet where there is sufficient room for the expected attendance. If the regular meeting room is adequate for usual attendance, the council is probably not required to seek larger quarters for a meeting that unexpectedly attracts an overflow crowd.

a. Geographic Location

Meetings of the council and other city bodies must be held within the city. ORS 192.630(4). A joint meeting with two or more governing bodies must be held within the geographic boundaries of the area over which one of those bodies has jurisdiction, or at the nearest practical location.

This does not apply in the case of an actual emergency requiring immediate action. Additionally, the law permits the council to hold "training sessions" outside the county, so long as no deliberation toward a decision are involved. ORS 192.630(4).

b. Nondiscriminatory Site

The council and other city bodies may hold public meetings in private places such as restaurants or residences, if *fully* adequate notice is given of the location so interested persons may attend, and if *fully* adequate arrangements are made for their convenient attendance. City bodies may not meet at a place where discrimination on the basis of race, creed, color, sex, age, national origin or disability is practiced. ORS 192.630(3). The Americans with Disabilities Act, 42 USC 12131 *et seq.*, prohibits discrimination

against persons with disabilities by public entities, and by places of public accommodation for meeting sites owned by private entities.

3. Accessibility to Persons with Disabilities

ORS 192.630(5)(a) states:

It shall be considered discrimination on the basis of disability for a governing body of a public body to meet in a place inaccessible to the disabled, or, upon request of a hearing impaired person, to fail to make a good faith effort to have an interpreter for hearing impaired persons provided at a regularly scheduled meeting.

This statute imposes two requirements. First, public meetings must be held in places accessible to individuals with mobility and other impairments. Second, there must be a good faith effort to provide an interpreter for hearing impaired persons.

4. Public Attendance

The meetings law is a public attendance law, not a public participation law. Council meetings are open to the public except for closed meetings specifically authorized. ORS 192.630. *The right of public attendance guaranteed by the Public Meetings Law does not include the right to participate by public testimony or comment.*

Other statutes, rules, charters, ordinances, resolutions, and bylaws outside the meetings law may require the council and other city bodies to hear public testimony or comment on certain matters. For example, ORS 197.235, land use and ORS 294.40, budget provide for public hearings and comments. In circumstances where such requirements do not apply, the council may conduct a meeting without any public participation.

5. Control of Meetings

The mayor or presiding officer of any meeting has inherent authority to keep order and to impose any reasonable restrictions necessary for the efficient and orderly conduct of a meeting. If public participation is part of the meeting, the presiding officer may regulate the order and length of appearances and limit appearances to presentations of relevant points. Any person who fails to comply with reasonable rules of conduct or who causes a disturbance may be asked or required to leave and upon failure to do so becomes a trespasser. *State v. Marbet*, 32 Or App 67 (1978).

This authority extends to control over equipment such as cameras, tape recorders and microphones, but only to the extent of reasonable regulation. Members of the public may not be prohibited from unobtrusively recording the proceedings of a public meeting. The criminal law prohibition against electronically recording conversations without the consent of a participant does not apply to recording “public or semipublic meetings such as hearing before government or quasi-government bodies.” ORS 165.540(7)(a).

6. Voting

All official actions by the council must be taken by public vote. The vote of each member must be recorded. ORS 192.650(1)(c). Written ballots may be used, but each

ballot must identify the member voting and the vote must be announced. *Secret ballots are prohibited.*

The failure to record a vote is not itself a ground for reversing a decision. Without a showing that the failure to record a vote was related to a manipulation of the vote, a court will presume that public officials lawfully performed their duties. *Gilmore v. Board of Psychologist Examiners*, 81 Or App 321, 324 (1986).

7. Minutes and Recordkeeping

ORS 192.650 requires that written minutes be taken at all meetings, except for executive sessions. Meeting minutes shall include at least the following:

- (1) Members present;
- (2) Motions, proposals, ordinances, resolutions, and orders and their disposition;
- (3) Results of all votes and the vote of each member by name;
- (4) The substance of any discussion on any matter; and
- (5) Subject to the Public Records Law (ORS 192.410 to 192.505), a reference to any document discussed at the meeting. This reference does not change the status of the document under the Public Records Law.

Minutes need not be a verbatim transcript, and the meeting does not have to be recorded unless otherwise required by law. The minutes must be a true reflection of the matters discussed at the meeting and the views of the participants. ORS 192.650(1).

The city must prepare minutes and have them available within a “reasonable time after the meeting.” ORS 192.650(1). After minutes are prepared, they cannot be withheld from the public merely because they have not yet been approved. If minutes have not been approved, they may be so identified. Completed minutes are public records subject to disclosure under the Public Records Law, even if they have not been formally approved.

Executive session minutes may be kept in the form of a tape recording rather than written minutes. ORS 192.650(2). No transcription of executive session minutes must be made unless otherwise required by law. If disclosure of material in the minutes would be inconsistent with the purpose of the executive session which was held under ORS 192.660, the material may be withheld from disclosure. ORS 192.650(2).

The news media have no legal right of access to minutes or tapes of executive sessions greater than that of the general public.

E. EXECUTIVE (CLOSED) SESSIONS

1. Permissible Purposes

City councils may meet in executive sessions only in specified situations. ORS 192.660. An “executive session” is defined as “any meeting or part of a meeting of governing body that is *closed* to certain persons for deliberation on certain matters.” ORS 192.610(2) (emphasis added).

The council may hold an open session even when the law permits it to hold an executive session. The council is authorized to hold closed sessions regarding the following subjects:

(1) Labor Negotiator Consultations

The council may meet in executive session for deliberations with persons designated by it to conduct labor negotiations. ORS 192.660(1)(d). The media may be excluded from such sessions. ORS 192.660(3).

(2) Real Property Transactions

The council may go into executive session to deliberate with persons designated by it to negotiate real property transactions. ORS 192.660(1)(e). Real Property transactions are not limited to purchase or sale of real property, but may include long-term leases. This exemption does not include discussions of long-term space needs or general policies concerning lease sites.

The executive session is limited to discussions of negotiation about specific real property and should not include discussion of long-term space needs or general policies concerning lease sites.

(3) Legal Counsel

Executive sessions may be used by the council to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed. ORS 192.660(1)(h). This authorization parallels the Public Records Law exemption for documents pertaining to litigation. ORS 192.501(1). The discussions may include substantive analysis of the legal merits, risks and ramifications of the litigation, as well as procedural options.

Discussions in executive sessions may proceed even to the point at which the council reaches an informal consensus as to its course of action. ORS 192.660(4) guarantees that the results of any consensus will be made public because any final decision must be made in open session.

Written legal advice from the city attorney is privileged information under ORS 40.225. It is exempt from disclosure under ORS 192.502(8) and a proper subject of an exempt session under ORS 192.660(1)(f). If appropriate steps are taken, an executive session may be used to discuss any legal matter of a confidential nature even without the existence or likelihood of litigation.

(4) Exempt Public Records

The council may meet in executive session to consider records “that are exempt by law from public inspection.” ORS 192.660(1)(f). The Public Records Law, specifically ORS 192.496, 192.501 and 192.502, exempts records from public inspection. Unless a record is exempt under one this or some other law, the board may not consider the record in executive session under ORS 192.660(1)(f).

(5) Labor Negotiations

In 1997 the law was changed to require labor negotiations to be conducted by the council in open meetings unless both sides request negotiations in executive session. ORS 192.660(2). Note that city labor negotiations with employees' representatives are not subject to the meetings law at all if the negotiations are conducted for the city by *individuals* retained by the chair. In these circumstances, the public and the media cannot invoke the Public Meetings Law as a basis for attending negotiation sessions. *Southwest Oregon Publishing Co v. Southwest Oregon Community College*, 28 Or App 383 (1977).

2. Final Decision Prohibition

ORS 192.660(4) states: “No executive session may be held for the purpose of taking any final action or making any final decision.” The council may reach a consensus in executive session. The purpose of the “final decision” requirement is to allow the public to know the *results* of the discussions. Taking a formal vote in open session satisfies that requirement, even if the public vote merely confirms a decision made informally in closed session.

3. Method of Convening

An executive session may be called during a regular, special or emergency meeting for which notice has already been given in accordance with ORS 192.649. The person presiding at the meeting must announce the statutory authority for the executive session before going into closed session. ORS 192.660(1). When a meeting that will be solely an executive session is called, the statutory authority for the executive session must be set forth in addition to notice requirements for any other meeting.

4. Media Representation

The Public Meeting Law expressly provides that representatives of the news media *shall be allowed* to attend all executive sessions except for sessions involving deliberations with persons designated to carry on labor negotiations, *Barker v. City of Portland*, 67 Or App 23 (1984).

As stated above, the council board may consult with the city attorney about pending litigation or litigation likely to be filed. The council may exclude any member of the media from such a meeting if the member is a party to the litigation to be discussed or is an employee, agent or contractor of a new media organization that is a party to the litigation. ORS 192.660(4).

The council may require the non-disclosure of specified information that is the subject of the executive session. ORS 192.660(3).

SECTION 2 – OREGON PUBLIC RECORDS LAW

INTRODUCTION

The Public Records Law (ORS 192.410 to 192.505) was enacted in 1973. It establishes state policy that the public is entitled to know how governments operate. The written record of public business is available, with some important exceptions, to any person.

The records law has been amended many times. This material summarizes the major provisions of the law that apply to Multnomah County. It borrows heavily from the *Attorney General's Public Records and Meetings Manual* (AGM) published December 1, 1999.

A. RIGHT TO INSPECT

Under ORS 192.420 “every person” has a right to inspect any non-exempt public record. Any natural person or any corporation, partnership, firm or association has this right. ORS 192.410(2). The identity, motive and need of persons requesting access to public records are irrelevant unless an exemption from disclosure allows consideration of those factors. Interested persons, news media representatives, people seeking access for personal gain, busybodies on fishing expeditions, persons seeking to embarrass government agencies, and scientific researchers all have equal footing. *See MacEwan v. Holm*, 226 Or 27 (1961).

The identity and motive of the person seeking a specific public record may be relevant in determining if a record is exempt from disclosure under a conditional exemption. ORS 192.501 conditionally exempts certain records from disclosure “unless the public interest requires disclosure in the particular instance.” Many exemptions in ORS 192.502 require balancing privacy rights, governmental interests, and other confidentiality policies against the public interest in disclosure. The identity of the requestor and the use to be made of the record may be relevant in determining the weight of the public interest in disclosure.

The 1999 Legislature added a new subsection (2) to ORS 192.420. The new provision places an additional requirement on a person who is a party to civil litigation or has filed notice under ORS 30.275(5)(a). When such a person makes a request for a public record the person knows relates to the litigation or notice, the person must submit the request to the custodian and the Attorney General at the same time.

B. BODIES SUBJECT TO LAW

1. Public Bodies

The Public Records Law applies to any public body in the state. ORS 192.410(3) defines “public body” to include:

CITY OF TOLEDO		City Council Rules		
POLICY AND PROCEDURE				
NUMBER:	901C	APPROVED:	03/18/91	DISTRIBUTION:
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PURPOSE: To provide basic City Council procedural rules to preserve and implement effective City government.

1. MEETING SCHEDULES.

- A. **Regular City Council Meetings.** The Council shall meet at 7:00 p.m. on the first and third Wednesday of each month in the City Hall Council Chambers or at any place that the Council may direct. On recognized City holidays which fall on Wednesday, the Council shall meet on the following Thursday.
- B. **Special City Council Meetings.** The Mayor, or in the Mayor's absence, the President of the Council may call a special meeting of the Council. Four Councilors may also call a special meeting by filing a request with the City Recorder. Notice of a special meeting shall be given to each member of the Council at least 24 hours in advance of the meeting. Notice may be given in writing, in person, by telephone or by electronic communication. No business other than that for which a special meeting is called can be transacted at a special meeting.
- C. **Executive Sessions.** An executive session (a meeting closed to the public) may be held in accordance with the Oregon Public Meetings Law. The Presiding Officer may call any regular, special or emergency meeting into executive session by citing the specific provision of ORS 192.660 that authorizes the session. Executive sessions may also be separately scheduled pursuant to the requirements for special meetings.
 1. **Attendance at Executive Sessions.** The Presiding Officer shall determine which persons other than the Council shall attend an executive session.
 2. **Media Attendance.** Representatives of the news media shall be allowed to attend executive sessions except those called pursuant to ORS 192.660(1)(d) (deliberations with persons designated to carry on labor negotiations). The Presiding Officer shall instruct any media representatives present not to disclose the substance of any discussion during executive session.

3. **Final Decision Prohibited.** No final decision shall be made in executive session. To make a final decision, the presiding officer shall either call the meeting into open session or place the decision on the agenda of a future open session.
- D. **Work Session:** The Council shall meet on a regular monthly schedule to review and discuss topics of interest to the Council. The meeting date and time shall be determined by consensus of the Council.
- E. **Workshop Meetings.** Workshop meetings may be scheduled as necessary by consensus of the Council. Workshop meetings are informal sessions to review upcoming issues, receive special reports, conduct goal setting sessions and for special training purposes.

2. **MEETING PROCEDURES.**

A. **Robert's Rules of Order.**

1. The current edition of Robert's Rules of Order Revised shall be used as the guideline for conduct of Council meetings, except in those cases where specific provisions contrary to Robert's rules shall be necessary and approved by the Council.
2. The City Council agrees to be clear and simple in its procedures and considerations of decisions before it. The Council shall avoid invoking the finer points of parliamentary rules to obscure issues and arouse audience suspicion at public meetings.

- B. **Presiding Officer.** The Mayor, or in the absence of the Mayor, the Council President, shall be the Presiding Officer at all meetings. In the case of the absence of the Mayor and the Council President, the City Manager shall call the meeting to order and the Council shall elect a Presiding Officer by majority vote. The Presiding Officer shall conduct all meetings, preserve order, enforce the rules of the Council and determine the order and length of discussion on any matter before the Council subject to these rules. The Presiding Officer may debate and vote on any issue and shall not be deprived of any of the rights and privileges of a Councilor.

- C. **Quorum Requirements.** The Presiding Officer shall call the meeting to order at the time designated for a scheduled meeting. Except to adjourn, a quorum is necessary to conduct business at any meeting of the City Council. A quorum is defined by charter as a majority of incumbent members of the Council.

- D. **Agenda Items.** In order to make more efficient use of meeting times, the Manager shall place all items that are routine in nature and on which no debate is expected on a "consent agenda". Consent agendas may be approved by a single motion "to adopt the consent agenda", which is not debatable. Adoption of the consent agenda shall be by affirmative vote of all Council members present and shall have the same effect as a separate vote for each item. Any Councilor may request an item be removed from the consent agenda to be discussed and voted upon as a separate action item.

- E. **Order of Business.** The order of business at Council meetings shall be as follows unless adjusted by the Presiding Officer:

1. Call to order
2. Visitors Comments. (Council appreciates limiting presentations to 5 minutes.)
3. Consent Calendar
4. Discussion and Information Items
5. Decision Items
6. Reports and Comments
 - a. Department Reports
 - b. City Manager's Report
 - c. Council Comments
 - d. Mayor Comments
7. Executive Session (*If necessary*)
8. Adjournment:

F. **Public Hearings.** The Presiding Officer shall announce prior to each public hearing the nature of the matter to be heard as it is set forth on the agenda. The public hearing procedure shall be followed as set forth in Appendix A. The Presiding Officer may, with the approval of Council, limit the time and number of speakers at each public hearing. In such event, the Presiding Officer shall announce such restriction prior to the beginning of the hearing.

G. **Voting Procedures.**

1. **General.** The vote on every motion shall be taken by a show of hands or roll call and entered in the meeting minutes. Any other questions before Council shall not require a recorded vote unless requested by any Council member. A member's explanation of their vote shall not be in order during a roll call.
2. **Duty to Vote.** Every member when a question is taken shall vote, unless a majority of the Council for special reason excuses the member. Any Councilor shall withdraw themselves from the item being voted on should there exist a direct pecuniary interest in the matter.
3. **Reconsideration of Actions Taken.** Any Councilor who voted with the majority may move for a reconsideration of an action at the same or the next following regular meeting. Once a matter has been reconsidered at the same meeting, no motion for further reconsideration shall be made without unanimous consent of the Council.

H. **Rules of Order**

1. **Councilor Presentations.** Every Councilor desiring to speak shall address the Presiding Officer and, upon recognition by the Presiding Officer, shall confine their remarks to the question under debate.

2. Questioning of Staff. Councilors desiring to question the administrative staff may direct the inquiry to the City Manager or to the person designated by the City Manager to answer the inquiry during the Council meeting.
3. Administrative Staff, City Employees Addressing Council. City administrative staff and other City employees desiring to address the Council shall first be recognized by the Presiding Officer and shall address such remarks to the Presiding Officer. The staff shall respond to questions or comments by the Council or members of the public with permission of the Presiding Officer, and shall do so in a polite, tactful manner.
4. Citizen Question or Discussion.
 - a. No person shall enter into any discussion without being recognized by the Presiding Officer. Any citizen desiring to address the Council should come to the designated location to address the Council and be recognized by the Presiding Officer. After being recognized by the Presiding Officer, the person shall state their name and address for the record and their remarks shall be limited to the question under discussion.
 - b. Any citizen addressing the Council shall be limited to five minutes unless the Presiding Officer grants more time. No citizen shall be allowed to speak more than once upon any one subject.
 - c. The Presiding Officer shall give citizens an opportunity to address the City Council under "Decision Items". Comments shall be limited to the decision item on the floor and not exceed five minutes.
 - d. After a motion has been made, no citizen shall address the Council without first securing permission from the majority of the Council.
5. Decorum of Meeting.
 - a. Improper Conduct. The following items are not condoned by the City Council and may be cause for the Presiding Officer to have the person(s) removed from the Council Chambers:
 - i. Using or making of loud or disruptive language, noise or conduct which obstructs the work or the conducting of the business of the Council.
 - ii. Engaging in violent or distracting action.
 - iii. Willful injury of furnishings or of the interior of the Council Chambers or other meeting place.
 - iv. Refusal to obey any rules of conduct, including the limitations on occupancy and seating capacity.

- v. Refusal to obey an order of the Presiding Officer or an order issued by a Councilor which has been approved by a majority of the Councilors present.

- I. **Sergeant-At-Arms.** A law enforcement officer of the City may be Sergeant-at-Arms of the Council meetings. The Sergeant-at-Arms shall carry out all orders and instructions given by the Presiding Officer for the purposes of maintaining order and decorum at the Council meeting. If the Sergeant-at-Arms determines that the actions of any person who violates the order and decorum of the meeting constitutes a violation of any City Ordinance, the Sergeant-at-Arms may place such person under arrest and cause such person to be prosecuted under the provisions of the Municipal Code.
 1. **Removal Action.** The Presiding Officer shall warn any person(s) whose conduct is described above before taking action to have such person(s) removed.
 2. **Vacating Council Chambers.** If a meeting is disrupted by members of the audience, the Presiding Officer or a majority of the Councilors present may order the Council Chambers or other meeting place to be cleared.
 3. **Picture Taking and Filming.** Filming in the Council Chambers or other meeting places shall be allowed when permitted by the Presiding Officer.
 4. **Parliamentarian.** The Parliamentarian shall be designated by the Presiding Officer. It is the Parliamentarian's duty to assist the Presiding Officer to maintain the order and decorum at all meetings.
- J. **Seating Capacity And Safety Requirements.**
 1. The safe occupancy and seating capacity of the Council Chambers, as determined by the Fire Chief, shall be posted within the Council Chambers. The limitations on occupancy and seating capacity so determined and posted shall be complied with at all times.
 2. Aisles shall be kept clear at all times. Members of the audience shall abide by the seating plan in the chambers, and should not move forward of the seating areas unless wishing to address and be recognized by the Presiding Officer.
- K. **Flags, Signs and Posters.** No flags, posters, placards, or signs, unless authorized by the Presiding Officer may be carried or placed within the Council Chambers, any other meeting place, or in any meeting place where a public hearing is being held. This restriction shall not apply to arm bands, emblems, badges or other articles worn on personal clothing of individuals, provided that such devices are of such a size and nature as not to interfere with the vision or hearing of other persons at the meeting, and providing that such devices do not extend from the body in a manner likely to cause injury to another.

L. **News Media.** The Council recognizes the important role of the news media in informing the public about the decisions, activities and priorities of government. Accommodations shall be made where practical for members of the press at Council meetings so that they may observe and hear proceedings clearly. The terms “news media” “press” and “Representative of the press” for the purpose of these rules are interchangeable and mean someone who:

1. Represents an established channel of communication, such as a newspaper or magazine, radio or television station; and
2. Regularly reports on the activities of government or the governing body.
3. Final and binding decisions on the ability to qualify as a representative of the news media shall rest with the Council.

3. **FILLING VACANCIES.** Any vacancy occurring on the City Council, Budget Committee, Planning Commission, or other commissions or boards shall be filled as follows:

A. **Advisory Commissions or Boards.**

1. When vacancies occur in one of the City boards or commissions, the City Manager shall inform the news media of the vacancies and invite all interested, qualified candidates to file an application form supplied by the City (see Appendix B). The Council may establish a closing date when applications must be filed with the City Recorder.
2. Candidates for appointment to the Planning Commission or Budget Committee shall be interviewed by the Council as soon as practical after the closing date for applications. Interviews shall be scheduled at a Council agenda meeting and the Council shall make its selection to fill the vacancy at its next regularly scheduled council meeting after the interview. In making the selection, each Councilor shall vote by written ballot for one person from the nominees. The majority of votes cast will select the candidate to fill the office. In the event that no candidate receives a majority of votes cast, the vote will be retaken until a person receives a majority of votes cast.
3. The Mayor, with the consent of the Council, shall make appointments to other city boards and commissions.

B. **City Council.**

1. When a Council position becomes vacant, the City Manager shall inform the news media of the vacancy and invite applications to be filed by all interested, qualified candidates. City Council candidates shall be required to fill out a City application form (see Appendix B) and file a resume setting forth their background and a statement of reasons why they desire to be considered for appointment to fill the vacancy. The Council shall establish a date when all applications must be filed with the City Recorder. The filing of an application from any person eligible for Council shall be considered as placing that person in nomination.

2. After the filing date for a vacated Council position, the Council shall direct the City Manager to set a time for interviews with the candidates. Prior to the interviews, the Council shall review and establish criteria to be eligible for the vacated position and shall direct the City Manager to inquire and report back to the Council on whether the candidates fulfill such criteria.
3. When the Council is satisfied that it has concluded the process of reviewing the qualifications of nominees, the Mayor shall declare the nominations closed. Interviews shall take place with all eligible candidates and selection shall be determined by a process in which each Councilor votes by written ballot for one person from the nominees. The majority of votes cast will select the candidate to fill the office. In the event that no candidate receives a majority of votes cast, the voting will continue until there is a majority. In the event of three non-conclusive rounds of voting without a candidate receiving a majority of votes cast, the Council may either continue with the voting or reopen the process.

4. GUIDELINES AND PROCEDURES FOR CITY COUNCILORS.

A. **Agenda Items.** Any Councilor may have an item placed on the Council agenda. However, in the interest of full disclosure and if a decision is desired, background materials shall be provided to the City Manager one week prior to the Council meeting for placement in the Council packets. If no decision is requested by the Councilor a verbal report will be allowed with the Councilor's name noted on the agenda for presenting that item.

1. Any Councilor may request, if responsible for an agenda item, postponement of the item to another meeting if the Councilor cannot be present at the meeting at which time the item is scheduled.
2. Any two Councilors can request that an item be postponed to the following meeting. Further postponement requires a majority vote of the Councilors present.

B. General.

1. Any Councilor may attend any meeting at which the Council is represented, but only the designated Councilor has the right to vote.
2. Councilors should try to gather necessary information, have questions answered or identify questions to be answered during the Wednesday Council Agenda Meeting, or prior to the regular scheduled Council Meeting..
3. The Mayor's title should be used when appropriate during meetings and functions.
4. A Councilor should only speak for himself/herself and not for other Councilors.
5. Councilors should try not to personalize issues; therefore, discussion should be issue-oriented.
- 6.

7. Councilors should not create or infer a change in City policy before, during or after consideration of a particular issue unless the specific issue has been established as policy by vote of the Council.
 8. During public meetings, Councilors should not attempt to significantly edit or rewrite prepared ordinances because of the potential impact on other issues. If changes are necessary, amendments to an ordinance shall be prepared and reintroduced.
- C. **Conflict of Interest.** Generally, conflicts of interest arise in situations where a Councilor, as a public official deliberating in a quasi-judicial proceeding, has an actual or potential financial interest in the matter before the Council. Under state law, an actual conflict of interest is defined as one that would be to the private financial benefit of the Councilor, a relative or a business with which the Councilor is associated. A potential conflict of interest is one that could be to the private financial benefit of the Councilor, a relative or a business with which the Councilor is associated. A relative means the spouse, children, siblings or parents of the public official or public official's spouse. A Councilor must publicly announce potential and actual conflicts of interest and, in the case of an actual conflict of interest, must refrain from participating in debate on the issue or from voting on the issue.
- D. **Legal Advice.** Requests to the City Attorney for advice requiring legal research shall not be made by a Councilor except with the concurrence of the Council. Before requesting research or other action by the City Attorney, the Council is encouraged to consider consulting with the City Manager to ascertain whether the request or action can be accomplished more cost-effectively by alternate means. Outside a Council meeting, a Councilor should make requests of the City Attorney through the City Manager. Exceptions to this are issues related to the performance of the City Manager and unique and sensitive personnel, yet City business-related requests. The City Attorney shall in either case provide any written response to the full Council and City Manager.
- E. **Communication with Staff.** Councilors shall respect the separation between policy making and administration by:
1. Attempting to work together with the staff as a team in a spirit of mutual confidence and support.
 2. Not attempting to influence or coerce the City Manager or department head concerning personnel, purchasing, awarding of contracts, selection of consultants, processing of development applications or the granting of City licenses and permits.
 3. Addressing all formal inquiries and requests for information from staff to the City Manager or City Attorney and allowing sufficient time for response. All written information given by the City Manager or his/her designee to one Councilor should be distributed to all Councilors.
 4. Limiting individual contacts with City officers and employees so as not to influence staff decisions or recommendations, to interfere with their work performance, to undermine the authority of supervisors or to prevent the full Council from having benefit of any information received.

5. Respecting roles and responsibilities of staff when and if expressing criticism in a public meeting or through public electronic mail messages. Staff shall have the same respect for the roles and responsibilities of Council members. All written informational material requested by individual Councilors will be submitted by staff to the entire Council with a notation indicating which Councilor requested the information.
- F. **Confidentiality.** Councilors will keep all written materials provided to them on matters of confidentiality under law in complete confidence to insure that the City's position is not compromised. No mention of the information read or heard should be made to anyone other than other Councilors, the City Manager or City Attorney.
1. If the Council in executive session provides direction or consensus to staff on proposed terms and conditions for any type of negotiation whether it be related to property acquisition or disposal, pending or likely claim or litigation, or employee negotiations, all contact with other parties shall be made by designated staff or representatives handling the negotiations or litigation. A Councilor will not have any contact or discussion with any other party or its representative nor communicate any executive session discussion.
 2. All public statements, information, or press releases relating to a confidential matter will be handled by designated staff or a designated Councilor.
 3. The Council, by resolution, may censure a member who discloses a confidential matter.
- G. **Expenses and Reimbursement.** Councilors will follow the same rules and procedures for reimbursement as those that apply to City employees, as established by City policy. Councilor expenditures for other than routine reimbursable expenses (e.g., conference registration, travel, etc.) may require advance Council approval according to the purchasing rules which apply Citywide.
1. A Councilor who will be traveling on City business may make his or her own reservations for travel and lodging in accordance with City policy. Upon request to the City Manager, travel accommodations for Councilors will be made by City staff.
 2. The City does not reimburse Councilors for expenses incurred by their spouses. (Oregon Government Standards and Practices Commission Advisory Opinion 93A-1007)

Appendix A

GENERAL MATTERS/ORDINANCES PUBLIC HEARING

- I. OPEN the Public Hearing
- II. ANNOUNCE nature and purpose of hearing
- III. STAFF/PRESENTER report
- IV. PUBLIC TESTIMONY
- V. COUNCIL QUESTIONS
- VI. CLOSE HEARING
- VII. COUNCIL DELIBERATION

TOLEDO CITY COUNCIL
PUBLIC HEARING PROCEDURE

Appendix A

These procedures will serve as the guidelines for conducting quasi-judicial land use public hearings.

- 1. Open the hearing with a description of the item. Read the agenda heading to announce the item.**
- 2. Call for declaration of conflict of interest, ex-parte contact, or bias.**

A Councilor should respond only if they have a conflict of interest, ex-parte contact, bias, or conducted a site visit.

A party wishing to disqualify a Councilor from a decision item should provide notice to the City Manager at least 24 hours before the hearing.

- 3. Read statement of rights and relevance.**

All testimony or evidence presented toward the request being heard must be directed toward the relevant criteria contained in the Toledo Municipal Codes, to other city plans or policies, or to other criteria which a person believes pertains to the request.

For each individual hearing item on tonight's agenda, the applicable substantive criteria will be read for each request at the time the request is heard.

All persons shall raise issues with sufficient clarity so as to allow the City Council or others an adequate opportunity to respond to or resolve the issue.

Failure to address a criterion before the close of the hearing record precludes an appeal to the Land Use Board of Appeals based on that criterion.

Failure by the applicant, no later than the close of the hearing record, to raise constitutional or other issues relating to the proposed conditions of approval, with sufficient specificity to allow the city to respond to the issues, will preclude an action for damages based on those issues in the circuit court.

Prior to the close of the evidentiary record of this hearing, a participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. If a participant requests such an opportunity prior to the close of the evidentiary record, then the City Council may either continue the hearing for at least seven days or leave the record open for at least seven days to allow the submission of additional written evidence, arguments, or testimony.

- 4. Read the right to appeal.**

An appeal from an action or ruling by the City Council may be filed with the Land Use Board of Appeals (LUBA) within 21 days after the date of the City Council's decision is reduced to writing and bears the necessary signatures and is mailed or otherwise submitted to parties entitled to notice according to Oregon law. The appeal will need to comply with the LUBA appeal procedure and LUBA should be contacted for further information regarding an appeal

In order to have standing for an appeal, a person must have been mailed written notice or have participated in writing or in person at the Planning Commission public hearing or at the City Council public hearing or have been substantially affected by the action or ruling.

5. Staff report. (Including the reading of the applicable substantive criteria)

NOTE: If a large number of people are present to offer testimony, a time limit may be set on individual testimony. If testimony begins to be repetitive, a show of hands for those supporting the views being stated may be called to expedite the hearing.

In the next section of this public hearing procedure, the person presenting the application, the Applicant, may give information regarding the application. People agreeing with the application, the Proponents, may then be heard. People objecting to the application, the Opponents, will then be heard. People who are neither for nor against the application, but are Other Interested Parties or Governmental entities, may then be heard. And finally, the Applicant may speak in rebuttal of any testimony presented.

6. Applicant testimony. (Please state name and address for the record.)

7. Proponent testimony. (Please state name and address for the record.)

8. Opponent testimony. (Please state name and address for the record.)

9. Other interested parties or Governmental Agencies. (Please state name and address for the record.)

10. Rebuttal by applicant.

11. Questions by Council.

Questions may be asked by the City Council of specific individuals. A few minutes of open conversation may occur to clarify general information. If any new information comes forth, the applicant and others should be given an opportunity to specifically address the information.

12. Close the hearing.

13. Deliberations.

The Council will consider the facts presented at the hearing, and if additional time is required, set a public meeting date to announce their findings and decision. During the deliberations, the Council may ask the applicant, proponent, opponent, or staff for clarification or for new information. No input from the audience will be accepted unless solicited by Council.

14. Decision. The Council will make a decision, based on findings of fact.

TOLEDO CITY ADVISORY POSITION APPLICATION

POSITION TO BE FILLED:

DATE OF FILING:

NAME OF CANDIDATE:

ADDRESS OF CANDIDATE:

TELEPHONE:

HOME:

WORK:

GENERAL BACKGROUND:

QUALIFICATIONS:

EXPERIENCE:

COMMENTS OF INTEREST:

WHY SEEKING POSITION:

COMMUNITY INVOLVEMENT:
