

Fire Department
285 NE Burgess Rd
Toledo, Oregon 97391
6:00 p.m.

TOLEDO CITY COUNCIL
Regular Meeting – also via Zoom Meeting Platform
January 5, 2022

Virtual Meeting: The City Council will hold the meeting in person for the City Council and staff in person as well as through the Zoom video meeting platform. The public is encouraged to attend the meeting electronically. Visit the meetings page on the city website for meeting login information.

Public Comments: The City Council may take limited verbal comments during the meeting. Written comments may be submitted by email to lisa.figueroa@cityoftoledo.org 3:00 p.m. the day of the meeting to be included in the record. Comments received will be shared with the City Council and included in the record.

1. **Call to Order and roll call**
2. **Presentations**
 - Proclamation – January Human Trafficking Awareness
 - Proclamation – Resolve to be ready; Emergency Preparedness
3. **Visitors/Public Comment**

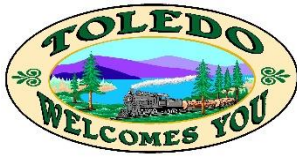
(The public comment period provides the public with an opportunity to address the City Council regarding items not on the agenda. Please limit your comments to three (3) minutes).
4. **Public Hearing**

Public Hearing: Consideration regarding the disposition and sale of City property; the Toledo Industrial Park
5. **Consent Agenda**

Minutes from the regular meeting held December 1, 2021
6. **Discussion Items**
 - Proposed Resolution; Mayor Cross
 - Ban on Fireworks
 - Discussion in regards to holding a goal setting
7. **Decision Items**

There are no items for consideration
8. **Reports and Comments**
 - Committee updates
9. **Adjournment**

Visit www.cityoftoledo.org/meetings for meeting information and how to attend electronically. Comments may be submitted in advance by e-mail to lisa.figueroa@cityoftoledo.org. Comments submitted in advance are preferable. The meeting is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting by calling city offices at (541) 336-2247.



City of Toledo

PROCLAMATION

Human Trafficking Awareness Month
January 2022

WHEREAS, Human trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery; and

WHEREAS, Human Trafficking disproportionately impacts those most marginalized in our community; anyone can become a victim of trafficking; and

WHEREAS, Human Trafficking is a public health and civil rights crisis occurring at epidemic levels all over the world. Its victims and survivors are everywhere including our community Toledo, Oregon; and

WHEREAS, Human Trafficking goes against basic human rights and there is a vital need to eradicate this crime; and

WHEREAS, Law enforcement, federal and state agencies; nonprofits, social service providers; private industry and non-governmental organizations including the Children's Advocacy Center, My Safe Place and the Siletz CARE program, are working to combat Human Trafficking in our community; and

WHEREAS, Human Trafficking Task Force of Lincoln County, along with their partners continue to educate the public on violence and exploitation in ways that honor those impacted by this crime; and

NOW, THEREFORE, I, *Mayor Rod Cross*, do hereby proclaim *January 2022* as

Human Trafficking Awareness Month

I encourage all citizens to work together with these invaluable community agencies to raise awareness and to help combat Modern-Day Slavery & Exploitation.

Mayor Rod Cross

January 5, 2022
Date

Understanding and Addressing Sex Trafficking in Our Community

January 25, 2022 11:30 AM – 1:00 PM
Online via Zoom

[Register here](#)

*Training is free, registration is required.

PRESENTED BY
LINCOLN COUNTY HUMAN TRAFFICKING TASK FORCE
LIZZIE MARTINEZ
JILL WAGNER



City of Toledo

PROCLAMATION

Toledo Emergency Preparedness Month
January 2022

WHEREAS, disasters usually strike with no advanced warning, and being prepared for them is a ongoing process, here is an opportunity for every resident of Toledo to prepare their homes and businesses for any type of emergency including natural disasters; and

WHEREAS, disasters can strike in many forms in our community, including major incidents such as flood, fire, earthquake, tsunami, and more localized events like explosions, chemical spills, water line breaks, downed power lines and trees; and

WHEREAS, by investing in the preparedness of our citizens, families and our businesses, communities can reduce fatalities and economic devastation in our communities and in our nation; and

WHEREAS, the Federal Emergency Management Agency's Ready Campaign, and other federal, state, local, tribal, and volunteer agencies are working to increase public activities in preparing for emergencies and to educate individuals on how to take action; and

WHEREAS, emergency preparedness is the responsibility of every community member in Toledo to ensure that individuals, families, and businesses are prepared for disasters and emergencies of any type; and

WHEREAS, all citizens are encouraged to make preparedness a priority, develop preparedness kits, participate in citizen preparedness activities and asked to visit the websites of the Ready campaign at Ready.gov and the City of Toledo to become more prepared.

NOW THEREFORE, I, Mayor Cross do hereby proclaim *January 2022* as

Toledo Emergency Preparedness Month

I encourage all citizens and businesses to develop their own emergency preparedness plan, and work together toward creating a more prepared community.

Mayor Rod Cross

January 5, 2022
Date

CITY OF TOLEDO REQUEST FOR COUNCIL ACTION

	Meeting Date:	Agenda Topic:
	January 5, 2022	Public Hearing: Consideration regarding the disposition and sale of City property; the Toledo Industrial Park
Council Goal:	Agenda Type:	
Not Applicable	Public Hearing	
Prepared by:	Reviewed by:	Approved by:
City Attorney D. Robinson	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Staff has no recommendation. The process for decision making is included in the proposed motion.

Proposed Motion: The Council has determined that the properties identified in Lincoln County Tax Assessor Map as 11-10-18AA as TL 800, TL 900, and TL 700 in the Toledo Industrial Park Property (TIP) are (1) “not needed for public use” and (2) that “the public interest may be furthered by offering for sale the TIP property.”

Therefore, I move to offer for sale the TIP property Tax Lots 800 & 900 with the following conditions:

- ☐ Prohibition on the buyer converting the property to nonprofit/tax-exempt property
- ☐ Price: \$400,000.00 for Tax Lots 800 & 900
- ☐ Number of jobs proposed by the development: 7 to 10
- ☐ The requirement of Toledo Municipal Code Chapter 3.12.060(G) requiring the City to accept the highest bid will not be enforced
- ☐ The sale is authorized directly to the purchase inquirer
- ☐ Council notes that staff has already notified the Oregon Department of Transportation pursuant to the terms of ORS 271.310(3)(a)
- ☐ Deed restrictive covenant. Tax Lots 800 and 900 carry a restrictive covenant as follows: The City of Toledo (and any successor in interest) shall not construct or operate, or permit or suffer the construction of or operation of a rock crushing, rock stockpiling or rock sales operation; or an asphalt manufacturing/processing business (including portable plants for a particular job) upon the property described above until December 31, 2060; except that the City may stockpile rock exclusively for its own use to maintain roads, but not for any other purpose.
- ☐ Deed restrictive covenant. Tax Lot 700 is a wetland and landlocked.
- ☐ Notice of sale must be published for a minimum of two weeks.

Background:

The Toledo Industrial Park Property (TIP) is standard undeveloped property (TMC 3.12.020 B). The TIP lots that are the subject of this matter are tax lots 700, 800, and 900. The City acquired the TIP property from Georgia-Pacific in September of 1986 as a gift/donation. The purpose of the TIP is to be an economic generator – industry, jobs, commerce. In 2010 Toledo sold the TIP property to Robert Weinert. Due to various issues with Mr. Weinert’s intended use, he transferred the property back to Toledo with conditions (no rock crushing, rock stockpiling, rock sales, or asphalt manufacturing/processing). The property has sat vacant since 2010.

From time to time the City receives inquiries to buy the TIP lots. Each time the City receives an inquiry, the City must follow its code process for selling standard undeveloped property, which includes a hearing, receiving public comment, and, in order to sell the property, it must make two findings: (1) that the property is “not needed for public use” and (2) that “the public interest may be

CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION

furthered” (TMC 3.12.060D). These decisions last for six months and if the City hasn’t received a successful bid, then the council must repeat the hearing process (unless council has authorized listing the property with a real estate as one of its determinations at the hearing, and in this case, city staff can list the property for an additional six months).

Obtaining an appraisal is required by TMC 3.12.060(C). The city obtained an appraisal in 2018. The appraisal need not be repeated each time the property is offered for sale. However, appraisals lose relevance as time passes and real property values change. The TIP property is unique in that there are not many comparable properties to compare it to and therefore the city can get a few years useful value from its 2018 appraisal.

The recent history of public hearings and sales attempts for the TIP are as follows. The city received inquiries in 2019. A public hearing in January/February 2020. The outcome was an order to staff to follow up with inquiries and determine what the bidder’s intended use would be. The City got no reply and six months passed. Around September-October 2020, the City received new inquiries about the TIP property. The city, again, held a hearing (January 20 and February 5, 2021). The outcome of the last hearing was as follows:

The TIP is not needed for public use and that the public interest may be furthered by offering for sale the TIP lots 700, 800, and 900. Therefore, I move to offer for sale the TIP property with the following conditions:

Minimum acceptable prices are as follows:

Individual lot prices:

TL 900 = \$250,000

TL 800 = \$200,000

TL 700 = \$100,000

If TLs 800 & 900 purchased together = \$400,000

If buy all three (3) properties together = \$475,000

Preference of job creation.

The Council may but is not obligated to take the highest bid.

The Council will prioritize job creation over the highest bidder if it is in a range of bids is within \$25,000.

Direction to staff: engage in direct negotiation with the individuals who solicited and if that does not generate some offer then to advertise for sealed bids.

Set a date to open those bids and set a closing date two to three months after opening.

Include the deed restrictive covenant(s).

Lot 900 (current plan is to use it for this season’s dredging)

None of the direct solicitations generated an offer. Therefore, the City is reached the point of offering TIP lots 700, 800, and 900, for sale by sealed bid. Having received no bids within six months, bidding closed by operation of law (TMC 3.12.060(I).

Fiscal Impact:	Fiscal Year:	GL Number:
\$400,000	2021-2022	Unknown at this time

Attachment:

1. Notice for Sale of Public Lands
2. TIP memorandum 12/07/2021
3. Adams memorandum 2017

TIME AND DATE OF SALE CLOSING:

On _____, The City of Toledo received an offer of \$ _____ to purchase two of three tax lots at the Toledo Industrial Property (TIP). Toledo City Council held a public hearing on _____ and authorized the sale of TIP property to the offeror. Toledo Municipal Code (TMC) 3.12.060(F) requires notice of the sale.

Additional terms established at the hearing include: _____

Toledo City Council ruled that new bids **will/will not** be accepted.

(delete if not applicable) BIDDING PROCEDURE: Bids must be submitted on city bid forms, printed from the city website at: _____, available in person at City Hall, City of Toledo, or mailed upon request.

SEALED BID FORMS must be received by the City no later than _____ AM/PM on _____, .
21. Bids received after that time will not be considered.

Mail/Hand Deliver inquiries to:
Toledo City Hall
206 N. Main St
PO box 220
Toledo, OR 97391.

County Map No.	Tax ID#	Map & Tax Lot No.	Address	Type of Property, Zone	Acres	Zone	Minimum Bid Price
11-10-18A	R508382	11-10-18-AA-00700-00 (formerly 300)	Industrial Way Toledo OR 97391	Lot, Light Industrial	0.92	Light Ind	\$100,000
11-10-18A	R515145	11-10-18-AA-00800-00 (formerly 3600)	Industrial Way Toledo OR 97391	Lot, Light Industrial	2.01	Light Ind	\$200,000
11-10-18A	R515146	11-10-18-AA-00900-00 (formerly 3700)	Industrial Way Toledo OR 97391	Lot, Light Industrial	3.12	Light Ind	\$250,000

Conditions of Sale:

If 800 and 900 are purchased together = \$400,000

All three (3) properties together = \$475,000

Information to bidders:

Bidders must do their own due diligence that the lots are suitable for the bidder's intended use. These lots are located within the flood plain.

Tax lots 3600 and 3700 are usable industrial parcels requiring fill to be developable. Tax lot 300 is a land locked designated wetland area that would be assembled with Tax lot 3600.

The Toledo Industrial Park (TIP) was created to be an economic driver. Therefore, The Toledo City Council ordered two criteria for potential bidders: Highest price and the jobs that will be created by the bidder. Bids that are within \$25,000 of one another will be examined by the Council based on the jobs that the bidder proposes by the project. Bidders are encouraged to provide details about the number

and quality of jobs that they propose to bring to the TIP. Examples include business plans for the TIP, market analysis, and the bidder's past projects.

Also note that in 2021, the tax lots were renumbered. TL 300 is now 700, TL 3600 is now 800. TL 3700 is now 900.

Non-Confidential Memorandum to the City of Toledo City Council Regarding Public Hearing
and Sale of the TIP December 2021-January 2022

The City of Toledo recently received an offer to purchase two of three tax lots (TL 800 and 900) at the Toledo Industrial Property (TIP). The City has addressed the sale of TIP three times in two years, the last time in January 2021. At that time, Toledo City Council held a public hearing and authorized the sale of the TIP by sealed bid. Having received no bids within six months, by operation of law, the bidding closed and the City is obligated to hold a new hearing to consider the sale of the TIP, determine price and terms, and described below.

History

The Toledo Industrial Property (TIP) is standard undeveloped property (TMC 3.12.020 B). The City acquired the TIP property from Georgia-Pacific in September of 1986 as a gift/donation. The purpose of the TIP is to be an economic generator – industry, jobs, commerce. In 2010 Toledo sold the TIP property to Robert Weinert. Due to various issues with Mr. Weinert's intended use, he transferred the property back to Toledo with conditions. The property has sat vacant since then.

The TIP is standard undeveloped property. I do not believe that the historical record supports the treatment of the TIP as special-case property ("Parcels that ... were acquired by the City for capital improvement... and were purchased subject to an agreement for the manner in which any surplus would be disposed." TMC 3.12.020 D). Former City Attorney, Michael Adams, did not address this issue in his memorandum dated 06/21/2017 but he did highlight TMC 3.16.020 B indicating his advice that the TIP is standard undeveloped property (see attached memorandum dated 6/21/2017¹).

The Toledo City Council held a hearing on January 22, 2020 (audio 46:50-1:09:27). Bud Shoemake, Port of Toledo offered a good deal of history about the TIP during his public comment. Due to an issue of public notice, Council continued the hearing to February 5, 2020 (audio 46:30-51:44, with executive session to discuss real property appraisal). There were no other public comments. Council closed the hearing and directed staff as follows:

“we will entertain offers but the most important criteria is, ‘what do you want to do with it’”? The offer must include price as well as details and long-term plans. Council also is open to offers for long-term leases as well.

City Manager Wes Hare, indicated that he would notify the two parties who inquired about the property directly.

In the time period after the public hearing, the two parties who initially asked about the TIP property fell out of communication. The city also received a handful of noncommittal inquiries.

At regular session City Council, December 16, 2020, the council by consensus agreed to hold a hearing on January 20, 2021. At the hearing, the Council authorized the sale of the TIP and

¹ I find nothing in the subject matter of the 2017 Adams memorandum where the public interest in nondisclosure outweighs the public interest in disclosure).

directed staff to solicit bids and market the TIP. The City gave special notice the individuals who inquired about the property.

Having received no bids within six months of the offering, the TIP disposal project was deprioritized in lieu of more immediate matters.

The City Manager recently received a bid for two of three tax lots, TL 800 and 900. Offering price: \$_____.

Process to accomplish the sale

Toledo Municipal Code (TMC) 3.12.060 directs the process:

- (a) Set a properly noticed hearing (TMC 3.12.060 A and B). Subsection C requires the City to have the property appraised. An appraisal of the subject property was completed in 2018.
I advise that the real property appraisal should not be disclosed to the public. ORS §192.345(6) conditionally exempts information relating to the appraisal of real estate prior to its acquisition. I advise that the Council not disclose any information contained in the 2018 appraisal. Conditionally exempt public records are subject to disclosure at the discretion of the public body. That discretion is called the public interest analysis. The public interest analysis for this real estate appraisal is as follows: The public interest in nondisclosure outweighs the public interest in disclosure because:
 - (i) disclosing the terms of the appraisal defeats the purpose taking bids. If the universe of potential buyers knows what our appraisal says then they will bid targeting the appraisal,
 - (ii) disclosure the appraisal simultaneously contradicts the purpose of the TMC 3.12.060(F) (“highest bidder by public sale, by sealed bid...”), and
 - (iii) the public’s interest is furthered by obtaining the highest bid for the property – disclosure of the City’s appraisal would undermine that public interest in obtaining the best value for the land.
- (b) At the hearing, the Council must solicit public testimony. In order to dispose of the real property, the Council must make two findings: (1) that the property is “not needed for public use” *and* (2) that “the public interest may be furthered” (TMC 3.12.060D).
- (c) After the hearing, (which can be the same night as the hearing) the Council must determine whether to offer the property for sale and the minimum acceptable terms. (TMC 3.12.060 E)
Terms that the Council may want to consider include the following:
 - Prohibition on the buyer converting the property to nonprofit/tax-exempt property
 - Minimum acceptable price
 - Minimum number of jobs proposed by the development

- (If applicable) The requirement of TMC 3.12.060(G) requiring the City to accept the highest bid will not be enforced. Instead, highest bid will be one factor considered, in addition to the Terms set by Council.

(d) If sale is authorized by Council, Council selects one of the following methods:

- (1) highest bidder at public sale,
- (2) by sealed bid, or
- (3) direct to the purchase inquirer.

Then follow the procedure:

Public notice requirement: a minimum of one advertisement published in a newspaper of general circulation no less than two weeks prior to the sale/bid deadline. The notice must contain a description of the real property, minimum acceptable terms of the sale, and if applicable, the person designated to receive bids, last date bids will be received, and the date, time, and place that bids will be opened. (TMC 3.12.060(F)).

(e) If one or more bids are received at or above the minimum acceptable terms, the highest bid shall be accepted and the city manager or designee shall complete the sale. (TMC 3.12.060 G). If no acceptable bids are received then the council may alter or keep the same minimum terms as established above and direct staff to hold another sale, or alter or keep the same minimum terms established above and list the property for six months with a local real estate broker on a multiple listing basis. (TMC 3.12.060 H)

(f) If, after the expiration of six months under TMC 3.12.060 H, there are no successful bids the City must remove the property from the market. Any new sale will require the City to follow the TMC 3.12.060 process from the start; the City may decide to get a new appraisal but it is not required to do so. (TMC 3.12.060 I)

(g) The TIP is within 100 feet of a railroad right of way; therefore, the City must notify the Oregon Department of Transportation no less than 30 days before listing or placing the property for sale (ORS 271.310(3)(a)).

Note: TMC 3.12.060(G) requires that the City accept the highest bid. Council may impose additional requirements of the sale according to TMC 3.12.030 (“In determining whether to dispose of real property, the city in its discretion may consider whether to establish certain requirements as conditions of the transaction, such as requiring that the property be developed to a certain standard by a specified date, that the property not be placed in tax-exempt status for a specified length of time, and other conditions the city may deem appropriate”).

Note: If the buyer is a public entity: TMC 3.12.070 - Disposal to other public entities. When disposing of real property to the federal or state government or any of their agencies or political subdivisions, the council may act without complying with the provisions of Section 3.12.050 and 3.12.060 when the disposal is for a specific public use.

Recap and advice:

- (1) I gave the ORS 271.310(3)(a) notice to ODOT on 12/09/2020 and received no objections.
- (2) Convene into executive session, under ORS 192.660(e) (real property transactions) in order to review the 2018 appraisal and the current offer to purchase TIP.
- (3) Notice and open a new hearing. Staff will need two findings: (1) that the property is “not needed for public use” *and* (2) that “the public interest may be furthered.” Staff will need direction about the offering price, and direct staff to accept the purchase offer, subject to (4).
- (4) Public notice requirement: a minimum of one advertisement published in a newspaper of general circulation no less than two weeks prior to the sale. The notice must contain a description of the real property, terms of the sale, and if applicable, the person designated to receive higher bids, last date bids will be received, and the date, time, and place that bids will be opened. Publication of the sale is mandatory. If higher bids are received, then Council will consider re-convene and consider how price interacts with its other factors, especially job creation. If no bids are received, then the bidding period closed, the offer is accepted, and city staff completes the sale.

Handwritten: Please see attached for more details.

MEMORANDUM

**Confidential Communication
Attorney-Client Privileged Communication
ORS 40.265**

TO: Mayor Billie Jo Smith, City Council, and City Manager Craig Martin
FROM: Mike Adams, City Attorney
DATE: June 21, 2017
RE: Offer to Purchase Real Property

Authority for executive session: The authority to go into the executive session, added to the agenda for the meeting tonight, June 21, 2017, is for the Council to discuss and for me to provide legal advice about an offer to purchase real property, which contains attorney-client privileged information. I strongly caution you to not discuss this outside the executive session. If you discuss this matter outside this executive session to anyone other than those present, you will waive attorney-client privilege for the City. You will also violate public meetings law.

Offer: Attached is an offer to purchase real property known as the Toledo Industrial Property (TIP), commonly known as the "TIP property". It contemplates a purchase price of \$245,000 for all three parcels, Tax Lots 300, 3600 and 3700. It is a fairly clean-cut deal with few contingencies.

Process to Sell: Should you decide to sell the property, I attempt to explain the process required for the city to sell the property.

ORS 221.725 provides what a city needs to do to sell real property. ORS 221.727 provides an alternate procedure for the sale of city property, using the term "may," if the city has adopted a procedure for sale of a class of city-owned real property. The City has adopted such a procedure by enacting its ordinance, Toledo Municipal Code (TMC) Chapter 3.12. However, TMC Section 3.12.030 provides that "Real property owned by the city shall be disposed of as provided in this chapter unless another procedure is specified in this code or approved by council."

Accordingly, I interpret that the council can choose to either use the process specified in TMC Chapter 3.12.030 or ORS 221.725. Since ORS 221.725 does not mandate an appraisal be conducted of the property before a sale, I propose this process is used, in part, because of the time delay and added expense of an appraisal.

Background Information on property:

1. The City acquired the 3 parcels and a large amount of other property from Georgia-Pacific Corporation as a donation (for "\$0 and other consideration" as the described consideration on the deed) on September 12, 1986. Book 174, Page 2005.
2. The City sold Tax Lots 3600 and 3700 (but not tax Lot 300) to Robert Wienert for \$168,000 on June 24, 2002. Book 452, Page 915.
3. In settlement of litigation, Robert Wienert conveyed both tax lots back to the City for \$190,000 on 15 December, 2010, subject to two deed restrictions. Lincoln County Recording Number 2010-12720. The deed restrictions state:

"SUBJECT TO: A restrictive covenant that the City of Toledo (and any successor in interest) shall not construct or operate, or permit or suffer the construction of or operation of a rock crushing, rock stockpiling or rock sales operation; or an asphalt manufacturing/processing business (including portable plants for a particular job) upon the property described above until December 31, 2060; except that the City may stockpile rock exclusively for its own use to maintain roads, but not for any other purpose."

"MAY ALSO SUBJECT TO: A deed restriction imposed by the Oregon Department of State Lands."

(I could not find this last deed restriction on any of the recorded documents. It likely still is in effect. It is related to the property being used contrary to being designated wetlands, which was noted by state agency orders, and seems to have been resolved by the City using the slough property along Sturdevant Road to break the dike to create wetlands).

3.08.210 Effective date.

This chapter shall become effective at 12:01 a.m. on the 1st day of January, 2007.

(Ord. 1314 § 21, 2006)

Chapter 3.12 DISPOSAL OF CITY-OWNED SURPLUS REAL PROPERTY

Sections:

3.12.010 Definitions.

3.12.020 Qualification—Classification.

3.12.030 Real property disposal—Scope.

3.12.040 Inventory of real property.

3.12.050 Disposal of substandard undeveloped property.

3.12.060 Disposal of standard undeveloped property and developed property.

3.12.070 Disposal to other public entities.

3.12.080 Lease of surplus real property.

3.12.010 Definitions.

For purposes of this chapter, the following definitions apply:

- A. "Disposal" or "dispose" means the sale, lease, exchange or donation of real property.
- B. "Lease" means a tenancy in real property granting the right of possession for a specified term for consideration. "Lease" does not include a permit, license or franchise to use any city-owned or controlled real property or public way.
- C. "Real property" means any interest in real property owned by the city within or without the geographic limits of the city.

(Ord. No. 1342, § 2, 11-2-2011)

3.12.020 Qualification—Classification.

Real property qualifying for the procedure established in this chapter is classified as follows:

- A. Substandard Undeveloped Property. Parcels with no structures thereon which are not of minimum buildable size for the zone in which located, and parcels that do not meet the city's existing development code;
- B. Standard Undeveloped Property. Parcels with no structures thereon which are of minimum or greater buildable size for the zone in which located;
- C. Developed Property. Parcels of any size with structures thereon;
- D. Special-case Property. Parcels that, notwithstanding subsections A, B and C of this section, were acquired by the city for capital improvement as defined by this code and were purchased subject to an agreement for the manner in which any surplus would be disposed.

(Ord. No. 1342, § 3, 11-2-2011)

3.12.030 Real property disposal—Scope.

Real property owned by the city shall be disposed of as provided in this chapter unless another procedure is specified in this code or approved by council. Before disposing of any real property under this chapter, the city shall find either that the property is not needed for public use or that the public interest may be furthered by disposal of such real property. In determining whether to dispose of real property, the city in its discretion may consider whether to establish certain requirements as conditions of the transaction, such as requiring that the property be developed to a certain standard by a specified date, that the property not be placed in tax-exempt status for a specified length of time, and other conditions the city may deem appropriate. Nothing in this chapter shall require additional procedures or limit the authority of the city manager to issue any permits or licenses authorized by this code.

(Ord. No. 1342, § 4, 11-2-2011)

3.12.040 Inventory of real property.

- A. The city manager shall establish and maintain an inventory of all real property and improvements titled in the name of the city and all real property and improvements to which the city has an equitable or fee simple title. The inventory shall include properties acquired through tax sales, grants, purchases, eminent domain, or by operation of law, including property transferred to the city from other governmental agencies. The inventory shall also include the classification of each property as determined by the city manager. Properties used for public rights-of-way shall be inventoried separately.
- B. The city manager shall present the inventory to the city council no later than the first day of October each year. Only those properties which are contained within the inventory shall be permitted to be proposed for lease, sale, or disposal. Revisions to the inventory or classifications shall be submitted as necessary.

(Ord. No. 1342, § 5, 11-2-2011)

3.12.050 Disposal of substandard undeveloped property.

- A. Whenever a particular parcel or parcels is proposed for sale by the city, or purchase inquiry is made, and the property is classified as substandard undeveloped property, the matter shall be set on the regular council agenda, but no public hearing is required. Except as otherwise provided in this section, notice of the agenda item shall be given to all property owners within two hundred fifty (250) feet of the parcel's boundary line and to any parties who have inquired about the purchase. If the city has issued a request for bids seeking purchasers of the property and provided the request for bids to property owners within two hundred fifty (250) feet of the parcel's boundary line and to those who have inquired about purchasing the property, notice need only be provided to those who have submitted a bid proposal. After discussion of the agenda item, the council shall determine whether it will offer the property for sale.
- B. If the city council decides to sell the property, it will direct the city manager or designee to take further action to sell the property. The city council may authorize the city manager or designee to publicize as appropriate, determine the existence of interested prospective purchasers, and negotiate for the sale of the property. Nothing in this section shall preclude the city manager or designee from taking preliminary actions, including publicizing a possible sale, determining the existence of interested prospective purchasers, and issuing a request for bids prior to the city council's decision, so long as the city does not enter into a binding agreement without city council authorization.
- C. The city council shall have the final authority to approve or disapprove the final terms of the sale. The city council may pre-approve terms and the agreement form at the meeting at which it determines to sell the property. If the city council does not pre-approve terms and the agreement form at its initial

meeting or if alternate terms or agreement form are proposed, the city council shall at a later regularly scheduled council meeting consider approval of the terms and agreement form.

(Ord. No. 1342, § 6, 11-2-2011)

3.12.060 Disposal of standard undeveloped property and developed property.

- P. HEARING*
- A. Whenever a particular parcel or parcels is proposed for sale by the city or a purchase inquiry is made and the property is classified as standard undeveloped property or developed property, the matter shall be set for a hearing before the council.
 - B. Notice of said hearing shall be published not less than once a week in a newspaper of general circulation in the city for two successive weeks prior to the hearing, and shall describe the property proposed for sale.
 - C. Prior to the sale of a parcel under this section, an appraisal of the property shall be conducted. At the discretion of the council, such an appraisal may be ordered prior to or after the hearing. The appraisal may be made available to the public at the hearing at the discretion of the council.
 - D. Public testimony shall be solicited at the hearing to determine if a sale of any parcel is in the public interest, and the property is not needed for public use.
 - E. After the hearing, the council shall determine whether it will offer the property for sale and what the minimum acceptable terms shall be.
 - F. If an offer to sell is authorized by the council, the council shall decide whether to sell the property to the highest bidder at a public sale, by sealed bid, or directly to the purchase inquirer on terms established by the council. A notice advertising the public sale or soliciting sealed bids shall be published at least once in a newspaper of general circulation in the city be made a least two weeks prior to the sale or bid deadline date. The notice shall describe the property to be sold, the minimum acceptable terms of sale, and if applicable, the person designated to receive bids, the last date bids will be received, and the date, time and place that bids will be opened.
 - G. If one or more bids are received at or above the minimum acceptable terms, the highest bid shall be accepted and the city manager or designee shall complete the sale.
 - H. If no acceptable bids are received on a particular parcel: (1) the council may alter or keep the same minimum terms as established under subsection E of this section and direct staff to hold another sale, or (2) the council may alter or keep the same minimum terms established under subsection E of this section and list the property for six months with a local real estate broker on a multiple listing basis. A listing may be renewed for an additional one six-month period.
 - I. After expiration of the period set out in subsection H of this section, the property shall be removed from the market. Any decision to sell a piece of property once it has been removed from the market shall require that the entire procedure set forth in this chapter be repeated. The council may, however, decide whether or not an additional appraisal is necessary.

(Ord. No. 1342, § 7, 11-2-2011)

3.12.070 Disposal to other public entities.

When disposing of real property to the federal or state government or any of their agencies or political subdivisions, the council may act without complying with the provisions of Section 3.12.050 and 3.12.060 when the disposal is for a specific public use.

(Ord. No. 1342, § 8, 11-2-2011)

3.12.080 Lease of surplus real property.

When real property is determined by the city manager to be suitable for tenant occupancy and that occupancy is consistent with the public purpose for which it was acquired or not be needed for the public purpose for which it was acquired for up to five years, the city manager may lease all or any part of it to another for a term not to exceed five years at fair market rent. If a potential tenant who desires to lease real property from the city is tax-exempt nonprofit, the city manager shall have the discretion to lease the real property for rent that is less than fair market value. The city manager may require additional lease terms and conditions consistent with the public health, safety and welfare.

(Ord. No. 1342, § 9, 11-2-2011)

**TOLEDO CITY COUNCIL
REGULAR MEETING**

December 1, 2021

6:00 p.m.

1. CALL TO ORDER

Mayor Rod Cross called the meeting to order at 6:00 p.m. electronically via Zoom in Toledo, Oregon.

Present	Absent	
X		Mayor Rod Cross
X		Council President Betty Kamikawa
	X	Councilor Jackie Kauffman
X		Councilor Rob Duprau
X		Councilor Todd Michels
X		Councilor Wade Carey
		Vacant

Staff present: City Manager (CM) Judy Richter, City Recorder (CR) Lisa Figueroa, Police Chief (PC) Michael Pace, Public Works Director (PWD) Bill Zuspan, Fire Chief (FC) Larry Robeson, City Attorney (CA) David Robinson, Assistant Library Director Harrison Baker

2. PRESENTATIONS

Interview City Council applicant

The City Council interviewed applicant Tracy Mix for the vacant position on the City Council. The decision for the appointment was scheduled later on the agenda.

3. VISITORS/PUBLIC COMMENT

Resident Leanna Rios addressed the Council about her concern for the use of Styrofoam within Toledo. She provided a short presentation and encouraged the Council to consider prohibiting the use of Styrofoam in the City.

4. CONSENT AGENDA

Minutes from the work session held October 27, 2021 and the regular meeting held November 3, 2021

Motion – It was moved and seconded (Carey/Kamikawa) to approve the Consent Agenda as presented and the motion carried unanimously.

5. DISCUSSION

Continue discussion on Urban Renewal projects

CM Richter indicated the results of the Council's poll in regards to the priority of projects for the Urban Renewal District was included in the packet. She said at some point the Urban Renewal Board will have to determine a budget and she wanted to present it to the Council for pre-planning. She noted it is early enough that decisions do not have to be made now. The Council reviewed the

1 list of projects and it was noted that the two top projects were encourage new businesses to relocate
2 in vacant storefronts and Business 20 sewer line replacement, replace sections of sewer line to
3 reduce Inflow & Infiltration to meet Wastewater Treatment Plant and Department of
4 Environmental Quality specifications and create smoother flow. Mayor Cross suggested in
5 addition to the annual improvement projects, they include a project that is visible to the public to
6 show that aboveground in addition to underground improvements. There was discussion about
7 providing incentives to businesses such as funding opportunities with low interest for an example.
8 After some discussion the Council requested the project list be added to a future meeting for further
9 discussion.

10 11 **6. DECISION ITEMS**

12 **Approve 2021-2022 Master Salary Schedule for non-represented employees with cost of** 13 **living adjustments**

14 CM Richter presented the council report. She noted the Council recently adopted the Toledo
15 Employee's Association collective bargaining agreement with a 2.5% cost of living adjustment
16 increase. She said typically the non-represented salary schedule receives the same increase and the
17 salary schedule is retroactive to July 1, 2021.

18
19 **Motion** – It was moved and seconded (Kamikawa/Duprau) to approve the Non-Represented Salary
20 Schedule to reflect 2.5% COLA retroactive to July 1, 2021 and the motion carried unanimously.

21 22 **Consider appointment of individual to fill the vacancy on the City Council**

23
24 **Motion** – It was moved and seconded (Kamikawa/Michels) to appoint Tracy Mix to fill the
25 vacancy on the City Council and the motion carried unanimously.

26
27 Following the appointment, CR Figueroa performed the Oath of Office for Ms. Mix.

28 29 **7. REPORTS AND COMMENTS**

30 ALD Baker provided a department report and noted the upcoming events, including Kids Art day,
31 the installation of the ADA doors and the holiday closure of the Library for two weeks to prepare
32 for interior painting.

33
34 PWD Zuspan updated the Council on current projects. He said parts came in for repairs to Butler
35 Bridge. He said there was an issue with the power at the Siletz pump station, which damaged all
36 the boxes so it is not operational at this time. He reported on the Mill Creek project and said
37 interviews are scheduled this week for an Operator Trainee at the Treatment Plants.

38
39 FC Robeson informed the Council on department activities. He commented on the program
40 volunteers and expressed appreciation for the dedication of the volunteers in the Fire Department.

41
42 PC Pace indicated the Annual Shop with a Cop will be Saturday, December 7 at Walmart. He said
43 there will be several training opportunities for officers in the department and reported Michael
44 Henderson's last day is December 8 and he will move on to the Albany Police Department.

1 CR Figueroa reported on upcoming events happening at the City facilities including the Toy Drive,
2 the retirement get-together for Assistant Fire Chief Dave Inman and the Community Appreciation
3 Parade on December 21. She said all the information for each event is available on the website.
4 CM Richter said she needs a volunteer from the Council to serve on the Yaquina Estuary
5 Management Plan update advisory committee. She said it should not be a long commitment and
6 Councilor Kamikawa volunteered.

7
8 Mayor Cross commented on the efficiency of staff in spite of the challenges with the coronavirus
9 (COVID-19). He indicated Toledo has been able to accomplish many things in comparison to other
10 cities.

11
12 **8. ADJOURNMENT**

13 The meeting adjourned at 7:05 p.m.

14
15 Approve:

Attest:

16
17
18 _____
19 Mayor Rod Cross

City Recorder Lisa Figueroa

RESOLUTION NO. _____

A RESOLUTION TO DECLARE THE _____ COMMITMENT TO JOIN LINCOLN COUNTY CITIES, WATER DISTRICTS, AND INDUSTRIAL WATER SUPPLIERS TO ESTABLISH A REGIONAL WATER SYSTEM WHICH WILL PROVIDE LONG-TERM WATER SECURITY FOR THE ENTIRE COUNTY, THROUGH MEMBERSHIP IN THE *LINCOLN COUNTY WATER SYSTEM ALLIANCE* (LCWSA).

WHEREAS, the Lincoln County Water System Alliance (LCWSA) is being created in order to establish a regional water system which will provide long-term water security for our entire county; and,

WHEREAS, the success of the LCWSA will require the participation of Lincoln County cities, major water districts, the County of Lincoln County, the Confederated Tribes of the Siletz, and large industrial water suppliers; and,

WHEREAS, the overall mission of the LCWSA is to review options, plan, secure funding, and establish regional water systems which will provide long-term water security for Lincoln County, while achieving significant protections for the environment; and,

WHEREAS, water suppliers will have a strengthened ability to address water issues, increase resiliency, and develop water sources through pooled resources; and,

WHEREAS, the mission of the LCWSA is urgent, as city, water district, and industrial water systems in Lincoln County are already experiencing water shortages and limits during the dry summer months; and,

WHEREAS, climate change projections indicate that the water shortages will increase dramatically; and,

WHEREAS, projected population growth will increase the demand for water resources, as the supply is decreasing, rendering our current systems untenable; and,

WHEREAS, countywide water systems must prepare for earthquake and tsunami resilience; and,

WHEREAS, countywide water systems must meet new federal and state stream flow regulations for endangered fish species and stream ecology; and,

WHEREAS, Lincoln County cities and water suppliers, as separate entities, have struggled to adequately fund the development and maintenance of the available local water resources; and,

WHEREAS, infrastructure deterioration and replacement costs are beyond the means of local taxpayers; and,

WHEREAS, applications for state and federal permits and major infrastructure funding will be *strengthened* when they demonstrate the benefits to and support of the entire region; and,

WHEREAS, all LCWSA members should be well informed on the options available, and have input into the plans to assure that their organization will benefit; and,

WHEREAS, recommendations made by the LCWSA must be approved by all affected members; and,

WHEREAS, the LCWSA is included in Oregon's Mid-Coast Water Planning Partnership Water Action Plan to lead in the creation of a feasible 50-year county-wide water supply plan which will incorporate regionally integrated plans to improve water system resiliency and adequately plan for future water supply development in the face of natural and human-caused disasters; and,

WHEREAS, the Mid-Coast Water Planning Partnership (MCWPP) Action Plan identifies the LCWSA as a local implementation organization to lead in seeking additional and alternative sources of water for development in the region; and,

WHEREAS, the Mid-Coast Water Planning Partnership (MCWPP) is positioned to support the LCWSA through enhanced coordination with state and federal entities outside of the Mid-Coast regarding regulations, permits, and funding;

NOW THEREFORE, The members of the _____, in regular session, do hereby find, declare and resolve that:

1. The _____ commits to the mission and will become a member of the Lincoln County Water System Alliance (LCWSA).
2. The _____ will appoint a staff member or elected official to actively participate in the pursuits of the LCWSA and to serve as the communication link between the _____ and the LCWSA.
3. The _____ will help to support a portion of the estimated \$55,000 costs of Phase I of the LCWSA mission (A professional review of existing regional water studies, data, recommendations, new technologies, distribution system upgrades, and untapped water sources to determine which are relevant, feasible, and could contribute to the long-term water supply needs of the county.)
4. This Resolution shall take effect immediately upon its adoption by the _____.

PASSED by the _____ on
this _____ day of _____ 2021.

APPROVED by the _____ on
this _____ day of _____ 2021.

ATTEST:

APPROVED:

Name, Position

Name, Position



LINCOLN COUNTY FIRE DEFENSE BOARD

North Lincoln Fire & Rescue
Depoe Bay Fire District
Newport Fire Department
Toledo Fire Department
Siletz Valley Fire District
Seal Rock Fire District
Central Oregon Coast Fire & Rescue
Yachats RFPD
Oregon Dept. of Forestry

November 8, 2021

An open letter to:

Lincoln County Board of Commissioners,
City Leaders of Lincoln County,
Elected and Appointed Officials of Lincoln County,

Each year in Lincoln County, Oregon, we celebrate the Fourth of July with community parades, family gatherings, barbecues, and fireworks. During this holiday, the increased demand on local public safety agencies in response to firework use often requires extra personnel to meet the additional emergency services requests. The increased call volume ultimately impacts the number of available resources to respond to emergencies.

Entirely aside from the danger of fireworks (both professional and recreational), there's the increasing risk of fire and property damage. Legal and recreational fireworks have proven to be traumatizing and harmful to children, animals, and a growing number of war veterans who deserve our loyalty the most. With the Echo Mountain Complex first anniversary over Labor Day, we are continually reminded of our inherent vulnerability and risk from fire.

Per State Laws, legal fireworks may be purchased only from Oregon permitted fireworks retailers and stands. Oregon law forbids possession, use, or sale of fireworks that fly, explode, or travel more than six feet on the ground or 12 inches in the air. Bottle rockets, Roman candles, and firecrackers are **ILLEGAL** in Oregon. Additionally, the use of ANY fireworks is illegal on Oregon State Property, including beaches. Under Oregon law, officials may seize illegal fireworks fining offenders up to \$1000 per violation, including possession of illegal fireworks and for endangering life and property. Offenders may also be arrested. Any fireworks causing damage or misuse of fireworks carries liability for the offender, who may be required to pay for resulting fire or other damage. Parents are liable for fireworks-caused damage by their children. Costs may include assessed fines as well as the cost of suppressing fireworks-caused fires.

While each fire agency in Lincoln County authorizes the sale of retail (legal) fireworks in their independent jurisdictions, many can offer no measures to ensure the safe use of legally obtained fireworks. Additionally, few agencies have the resources to enforce laws in response to illegal fireworks, let alone respond to the many complaints generated each year. In meeting the demands, many fire and law enforcement service agencies in Lincoln County hire additional staff during the 4th of July period to respond to the increased fire threat, the increased call volume resulting from population influx, and to reduce response times given the congestion on the roadways during this holiday.

Regardless of whether you are a fireworks fan, there is no denying the data surrounding fireworks accidents and injuries. Based on NFPA statistics, fire agencies across the nation can expect over 18,500 fires caused by fireworks in the 30 days from June 20 to July 20. Of those, 1,500 will be structure fires, and 300 will be vehicle fires, with a loss of over \$21 million. Sixteen thousand will be "outdoor fires," including several hundred vegetation fires given the tinder-dry conditions in some areas of the country, including ours. Additionally, the CDC indicates that there will be approximately 11,000 injuries requiring a hospital visit or stay, primarily for serious burns or hand injuries. And 28% of these injuries will be from sparklers that burn more than 1,200 degrees – the favorite firework of young children who are the age group most likely to be their victims. The number of fireworks-related deaths has varied over the years, but there are typically about 25 or more during fireworks season. Many of these are the results of the structure fires caused by fireworks.

The Lincoln County Fire Defense Board asks you to consider the adverse effects of fireworks use on our agencies and communities when discussing recreational fireworks ordinances or policies. Any regulation implemented by ordinance must be adopted not later than January 1 of any calendar year in which regulation is to be operative.

Respectfully,



Bryan Daniels, Fire Chief
Depoe Bay Fire District
Lincoln County Fire Defense Board Chief