

TOLEDO CITY COUNCIL
WORK SESSION
January 26, 2022
6:00 p.m.

1. CALL TO ORDER

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

Present	Absent	
<u>X</u>	<u> </u>	<u>Mayor Rod Cross</u>
<u>X</u>	<u> </u>	<u>Council President Betty Kamikawa</u>
<u>X</u>	<u> </u>	<u>Councilor Jackie Kauffman</u>
<u>X</u>	<u> </u>	<u>Councilor Rob Duprau</u>
<u>X</u>	<u> </u>	<u>Councilor Todd Michels</u>
<u>X</u>	<u> </u>	<u>Councilor Wade Carey</u>
<u>X</u>	<u> </u>	<u>Councilor Tracy Mix</u>

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, (Capt) Fire Inspector Greg Musil, City Attorney (CA) David Robinson

2. PRESENTATIONS

Presentation – Fishing industry impact

Heather Mann, Director for the Midwaters Trawlers Cooperative provided a presentation to the City Council. She said their organization is a non-profit trade association based in Newport, Oregon and have 28 trawl catcher vessels that fish for pacific whiting and groundfish on the Pacific coast but represent their homeports from Brookings Oregon up to Kodiak, Alaska. She said the presentation tonight is a study she compiled for the State of Oregon about the economic impact from commercial fishing in this area. She said the last study was completed in 2012. She said the study included 2019 data and focused on the Newport area, which included Depoe Bay, Waldport and Toledo. She said it considered commercial, recreational fishing activity as well as related/connected activity. She said commercial fishing in Newport included almost 5,000 deliveries, which had a harvest value of \$59.3 million with Dungeness crab accounting for 42% of the overall value. She reviewed the economic contributions by ocean onshore commercial and distant water fisheries, which was \$155 million total income. She indicated in 2019 there was an estimated \$23 million spent on recreational fishing. She compared the earned income values and noted the total economic contribution was \$176 million in 2019. She said the shipyards in Toledo are visited by people from California and Alaska and commented on how they contribute in the community through local businesses or sponsoring youth sports in the community. The Council thanked Ms. Mann for the presentation.

3. PUBLIC HEARING

Abatement of dangerous building located at 160 N. Main St. Toledo, OR 97391

Mayor Cross opened the Public Hearing at 6:26 p.m. and asked Council members if they wished to declare a conflict of interest or ex parte contact. Mayor Cross and Councilors Carey, Michels,

Mix and Kamikawa all stated they read an article about the building [Yaquina Hotel] in the newspaper or online. Mayor Cross explained the public hearing process and then allowed staff to present the council report.

CA Robinson reviewed and summarized the staff report included in the packet and indicated the Fire Chief determined the building located at 160 N. Main Street, the Yaquina Hotel meets the definition for dangerous building under Toledo Municipal Code (TMC) Chapter 15.12.010. He explained the building contains poorly installed electrical wiring, which is liable to fire; the building contains an abundance of combustible or explosive rubbish, rags, waste, gasoline or flammable substances to cause fire or danger to the safety of such building or the safety to the premises or human life. He said the building is kept in a filthy or unsanitary condition, which is liable to cause the spread of contagious or infectious disease and is in such weak or weakened condition, or dilapidated or deteriorated condition, as to endanger any person or property by reason of probability of partial or entire collapse. He said the Fire Chief determined there are multiple violations of the Oregon Fire Code, which is enforceable locally pursuant by TMC Chapter 8.20 and that there is an imminent risk to life and safety of the building's occupants and the properties and inhabitants of surrounding properties.

CA Robinson indicated the Council will review the violations in accordance with TMC 8.20, Adoption of State Fire Code and TMC 15.12, Abatement of dangerous buildings and noted the findings found under TMC 15.12 must be clear and the order requires a minimum five (5) days to enforcement to allow the owner of the building to correct any violations. Violations under the State Fire Code allows for an immediate closure of the building.

FC Robeson presented photographs and two videos of staff walking through the building with the Hotel Manager and Shannon Miller, Deputy State Fire Marshal (Deputy). He identified several violations that were found while walking through the building. Following the videos, FC Robeson presented several pictures to the City Council, which included several other violations in addition to examples listed below:

- evidence of bulging on the south side wall of the building
- unpermitted construction
- safety doors to the building blocked to prohibit entrance/exits
- exposed electrical panels and wiring
- dismantled fire alarms
- six-foot high debris
- storage of gasoline and other combustibles

CA Robinson noted at the February 14 meeting held by staff, it was determined there was not anyone competent to manage a 24-hour Fire watch, which is why the City paid for the services and it was unknown how many people were living in the building because the Hotel Management did not have master keys to any of the hotel rooms. He said the only way someone would be able to enter a room is by permission of the occupant or breaking down the door. He noted staff became aware that the fire alarms are triggered so often that even though the Fire department responds, the residents now ignore the alarms and remain in the building, which amplifies the imminent risk to loss of life.

Deputy Miller implied the history of places similar to the status of this building succumb to fire not without the loss of life such as the incident that occurred in Charleston where nine firefighters died and other hotels known as ghost ships. Capt Musil said locally the City Center Motel burned in August of 2015 and killed four people and then there was the Knights Inn in Newport which killed one person from a fire that occurred in August of 2018. He noted several similarities between the two buildings which included smoking in the building. FC Robeson stated when debris is so large the walkways are blocked or a normal walkway does not exist, emergency and fire safety personnel may be prohibited to enter. CA Robeson reviewed the State Fire Marshal's report [copy in the packet] and asked FC Robeson for clarification on several of the violations. FC Robeson said the construction and electrical violations are not issues that can be fixed fairly easily and will take some time to repair or complete. It was noted the smoke alarms were covered with plastic bags and annual inspections on the fire alarms has not happened because there is no entry to the rooms. Following discussion of the State Fire Marshal report, it was noted there were 26 violations listed on the report.

Capt Musil said the building is classified as R-1 occupancy, which is designated as a motel with residency that should be less than 30 days. He said apartment buildings fall under R-2 zoning and have different requirements in regards to kitchens/food preparation areas and fire suppression systems.

CA Robinson requested the Council conclude that the building is dangerous in accordance with referenced TMC Chapter 15.12(1)(2)(3) and/or (4) and reviewed the evidence already presented to the Council. FC Robeson said he is concerned about the bulging south wall with the construction underneath and believes it would require an inspection by a certified licensed engineer. He reiterated the hotel is operating as an apartment building rather than a hotel and not in compliance with the proper rules. CM Richter noted the City has paid for 24-hour fire watch at the recommendation of Deputy Marshall, which expires on January 27. She said the contract may need to be extended depending on the Council's actions in this meeting.

Deputy Miller reported her concerns mirror FC Robeson's concerns and added the blocked walkways created a maze in the building which is considered as an imminent life hazard that could cause harm or death to people within that building in an emergency situation. After hearing no further reports from staff, Mayor Cross opened the floor for the owner of the building. CA Robinson noted there was a picture provided by one of the residents that showed a portion of ceiling that collapsed in one of the rooms and asked FC Robeson when that occurred. FC Robeson did not have a time period of when that happened.

It was noted the owner of the building was not present. Mayor Cross accepted public testimony.

William Fig, Partner- Chair of Attorneys, Sussman Shank LLP, 1000 SW Broadway, Suite 1400, Portland, OR 97205, addressed the City Council. Mr. Fig said Alivelim Holdings Inc. (Alivelim) is the title holder of the property the hotel is on. He said the hotel was sold to Pawprints Inc. in March of 2018. He said the contract went into default and Alivelim filed a lawsuit in May of 2019, which went on hold through the coronavirus pandemic until November of 2021. He said Alivelim was able to obtain the rights to the property back in November, 2021 by court order, however, Alivelim has not been in possession or control of the building since March of 2018 to this day. He indicated Alivelim is willing to work with the City to remedy the problems.

James Egan, 160 N. Main Street, Toledo, OR addressed the Council and indicated he worked for Dustin Johnston (owner of PawPrints, Inc.). He agreed with the evidence provided by staff and stated he feels he has been duped and at the moment he is not being paid. He said he was offered the position to manage the hotel and has asked Mr. Johnston for months to return to the property to assist with the situation. He said he still has keys to the building but moved out a couple of weeks ago and is testifying as a tenant only.

Barbara Frederick, 160 N. Main Street, Toledo, OR addressed the Council. She commented on the appearance of the hotel before its current status and said it used to be a nice place for people in the community.

Stephanie Schriener, 121 NE. 60th Street, Newport, OR said she stayed at the hotel for a short period and stated the hotel was in disarray and mismanaged then as it is now.

Deborah Chipman, 160 N. Main Street, Room 202, Toledo, OR (attended via Zoom) commented the hotel has been managed terribly since 2019. She said there has not been any management on site for more than three weeks.

Brandy Carr, 160 N. Main Street, Room 201, Toledo, OR (attended via Zoom) she stated she provided a picture of the ceiling that caved in from room 319 to the Fire Department. She said she is scared to sleep at night in case the fire alarms go off and said the alarms are constantly going off. She said she is willing to pay for repairs with her rent money in order to feel safe.

After hearing no other comments, staff answered clarifications from the Council. The Council referred to the non-commercial stove on the second floor and inquired whether a vent is required and if it would have to be upgraded to commercial. Capt Musil responded the stove and vent would have to be commercial grade. The Council asked who has paid for the fire watch security. CM Richter said the City contracted with TCB Security to conduct the 24-hour fire watch. She noted in a summary abatement, the City can add the costs as a lien against the property. She said she received an invoice for \$10,000, which will allow TCB Security to be on site until 10:00 a.m. Thursday, January 27. CM Richter updated the Council on her actions in regards to secure housing for the residents of the hotel. She indicated she reached out to:

- Jenny Demaris at Lincoln County Emergency Services, who did not have any resources but suggested to contact the Board of Commissioners
- The Salvation Army, (CM Richter asked for resources if they could not help)
- Two different people at the American Red Cross, and was denied services both times
- The Lincoln County Housing Authority
- Left messages at the Lincoln County Behavioral Health (Crisis services) and did not receive a call back or response at all
- Lincoln County Board Commissioner Kaety Jacobson, who referred her to Department of Human Services (DHS) – Emergency Services Manager Jeff Gilbert

CM Richter said Mr. Gilbert provided three case managers on between January 20-21, who visited the hotel and made contact with at least 20 residents. She said they gathered information and possibly have some services available and they made a recommendation for Community Services Consortium for services. CM Richter said she also reached out to Northwest Coastal Housing, but is uncertain if they have any resources available. She noted DHS has helped displaced Otis

residents from last year's fires and they secured a hotel, which may have several vacancies. She noted Mayor Cross contacted the Lincoln School District to see if an emergency shelter could be placed at Arcadia school and is in contact with local churches. She said with Council approval, she would be willing to purchase hotel vouchers as well.

Motion – It was moved and seconded (Michels/Mix) to close the Public Hearing and the motion carried unanimously.

Mayor Cross closed the Public Hearing at 8:17 p.m.

The Council deliberated and several Council expressed concerns in regards to the fire hazards to that building with the possibility of a fire spreading out to neighboring buildings, the disregard for the residents' safety and potential fraud that occurred. There was a consensus of the Council in regards to closing the hotel for the safety of the residents.

Motion – It was moved and seconded (Carey/Michels) based on the evidence presented tonight to close the Toledo Hotel.

Mayor Cross inquired whether the motion needs to include a resolution. CA Robinson replied he is preparing a resolution and can ask for specific orders. He inquired what date the Council would order to close the hotel. Following discussion there was a clarification that the findings need to be determined in order to be included in the motion and resolution.

Councilor Carey withdrew his motion and Councilor Michels withdrew his second.

Upon reviewing the list of violations in the State Fire Marshal's report; the Council determined there were three items, Numbers 32, 36 and 68 that were questionable as to whether they were truly a violation, however, numbers 10, 11, 15, 16, 20, 25, 26, 27, 30, 33, 35, 39, 40, 41, 67, 70, 71, 76, 77, 81, 82, 83, and 84 were found unanimously in violation by substantial evidence. The Council proceeded to review the violations under TMC 15.12. and determined violations exist under 15.12.010(1), which included structural issues, unpermitted structural and electrical work; 15.12.010(2) existed as provided by substantial photographic evidence; 15.12.010(3), the Council believed the building was kept in an unclean condition, 15.12.010(4), compromised exterior wall and unpermitted construction.

The Council asked for clarification on the order and resolution. CA Robinson clarified the resolution would contain the orders by the Council. He said the resolution would identify the building located at 160 N. Main Street, Toledo as a dangerous building and the master list of findings would be attached to the resolution because they address each one of the Fire Code and dangerous building sections the City Council alleged. He said the Council must determine when the building should be evacuated. The Council discussed how to determine whether the building is any more dangerous than it was several years ago. CA Robinson said the resolution would require an engineer's structural report, which shall detail the structural stability of the building prior to reopening the building and a consensus of the Council concurred with that finding. After further discussion, it was determined the City would continue the fire watch and then evacuate and abate the building at 8:00 a.m. on Monday, January 31, 2022. CA Robinson noted the resolution

would require the property owner to incur all the costs of any inspections and structural engineering report and the Council concurred.

CA Robinson reviewed the fines imposed with the City Council and considered whether they should impose daily or one time fines. The Council requested the resolution identify Pawprints, Inc. and Dustin Johnston as the property owners. CA Robinson clarified fines could be imposed for each of the violations separately as well. After further discussion, Mayor Cross suggested \$1,000 fine per day for each fire code violation and the four dangerous building orders of the Council and a consensus of the Council concurred with his suggestion. CA Robinson recommended on February 1, the Fire Department can turn in a report to indicate whether any violations still exist due to the fact that there are no residents in the building. Capt Musil commented on the need for power for the fire alarms to work. CA Robinson noted the resolution stated if property owner, Pawprints Inc., Dustin Johnston or any other successor fails to do any of the remediation, the City may order an abatement and assessment pursuant to TMC 15.12.070 and 15.12.080 if the City performs the work, which shall include the costs of the fire watch as a lien against the property.

Motion – It was moved and seconded (Kamikawa/Michels) to adopt Resolution No. 1480, a resolution of the Toledo City Council determining a dangerous condition exists at 160 N. Main Street, Toledo, OR 97391 and orders an abatement of the property and the motion carried unanimously.

The Council recessed for a break at 9:30 p.m. and reconvened at 9:41 p.m.

4. VISITORS/PUBLIC COMMENT

Jackie Burns, community member, thanked the Council for their consideration of the residents during the public hearing. She said she is a resident on Wagon Road and commented on the maintenance needed on that road. She said she has been told it is not a road of the City, nor the County and asked what the process is to include her street for maintenance. Mayor Cross replied there will be discussion at the next meeting in regards to Wagon Road and invited her to attend.

5. CONSENT AGENDA

There were no items for consideration.

6. DISCUSSION ITEMS

There were no items for consideration.

7. DECISION ITEMS

Approve expenditure of up to \$58,300 to Dyer Partnership for engineering services

PWD Zuspan summarized the council report and answered clarification questions from the Council.

Councilor Kauffman declared a potential conflict of interest because she lives on French Street. The Council inquired about the difference in mileage between the two attachments. PWD Zuspan indicated he would need to clarify the information and the Council asked if the item could be brought back to the meeting next week.

Motion – It was moved and seconded to wait on the item for one week.

CM Richter indicated she could ensure the information is correct before she authorized the purchase and the Council concurred.

Motion – It was moved and seconded (Kauffman/Michels) to approve maximum expenditure of up to \$58,300 to Dyer Partnership for engineering services and the motion carried unanimously.

Review and draft resolution in regards to abatement of dangerous building

Item was considered following the Public Hearing.

Discussion to consider disposal of Toledo Industrial Property Lot #700

CA Robinson provided the council report and indicated the City recently received an offer to purchase two adjacent lots, #800 and #900. He said the City received an offer for the purchase of lot #700 and the Council must determine whether it would like to go through the sale of property process again. He said the letter of interest offer for #700 is \$50,000.

Motion – It was moved and seconded (Mix/Michels) to reject the offer that is on the table and direct city staff to encourage the individual to do their due diligence that they can do what they want with the property and let them know what the minimum acceptable price would be and to hold a public hearing to consider disposal of Toledo Industrial Property and the motion carried unanimously.

8. REPORTS AND COMMENTS

Councilor Mix commented on a webinar she took earlier in the week in regards to emergency preparedness and Council's role. She said she learned a lot from it and encouraged the Council members to take it if they can. CM Richter indicated the course will be offered again in March and she can forward the information to the Council.

PWD Zuspan indicated the department continues to work on daily projects and he is still recruiting to fill all the positions within the department.

CA Robinson provided an update to the Council on the City's recommendation in the Oregon Liquor and Cannabis Commission (OLCC) license process. He said the City has 45 days to provide a recommendation. He indicated if the City needs more than 45 days to provide a recommendation, the City must file an extension with OLCC.

CP Kamikawa asked the Council if they were willing to consider a letter to have a straw poll on the ballot and offered to write a letter for the Council to review. There was a consensus of the Council that she write the letter and bring back for consideration.

9. ADJOURNMENT

The work session adjourned at 10:19 p.m.

Approve:

Attest:

/s/Mayor Rod Cross

/s/City Recorder Lisa Figueroa