

**TOLEDO CITY COUNCIL
REGULAR MEETING
January 18, 2023**

1. CALL TO ORDER

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

Present	Absent	
X		Mayor Rod Cross
X		Council President Betty Kamikawa
X		Councilor Jackie Kauffman
X		Councilor Tracy Mix
X		Councilor Kim Bush
X		Councilor Wade Carey
		Vacant

Staff present: City Manager (CM) Judy Richter, Assistant City Manager/Human Resources Specialist (ACM) Sherry Meek, City Recorder (CR) Lisa Figueroa, Public Works Director (PWD) Bill Zuspan, Police Chief (PC) Michael Pace, City Attorney (CA) Mike Adams, Contract Planner (CP) Justin Peterson, Community Outreach Specialist (COS) Katy Keuter

2. PROCLAMATIONS/PRESENTATIONS

Marketing Toledo

COS Katy Keuter provided a presentation to the City Council in regards to marketing the City of Toledo. She commented on the multiple events plus recreation and outdoor opportunities available annually within the city. She compared marketing budgets between neighboring coastal municipalities and indicated it could be time for Toledo to consider a budget even if it is small to begin with in the first year. She noted Toledo does not have funding for marketing from transient lodging taxes like other cities such as Yachats or Lincoln City. She said she spoke with Jeremy Burke, owner of the *Ocean Waves* publication, who indicated he would write and include a story highlighting Toledo if they purchase advertisements for six months. The Council commented on the possibility of marketing Toledo and asked that a discussion/decision item be brought back to the Council on February 1.

3. PUBLIC HEARING

Mayor Cross opened the public hearing at 6:29 p.m. and asked Council members if they wish to declare any conflicts of interest or ex parte contacts. Councilors Kauffman, Bush, Carey, Kamikawa and Mayor Cross declared ex parte contacts because they have been to the site/have seen it recently. Mayor Cross called for CP Peterson to provide the council report.

CP Peterson said the application was submitted by the Port of Toledo to replace a gangway ramp, complete some excavation work, relocate the boathouse and remove three existing pilings. He said originally the joint permit application was also submitted to Army Corps [of Engineers], the Department of Environmental Quality (DEQ) and the Department of State Lands. He said part of the application requires a Land Use Compatibility Statement from the City. He said upon review, staff noticed it was in the floodway, which required an engineering hydrologic and hydraulic

analyses (H&H analysis). He said the Port of Toledo appealed staff's decision with the Planning Commission through the variance process. He said the Port of Toledo presented information in regards to the project and the Planning Commission decided in favor of the Port of Toledo and stated an engineering analysis was not needed. He said after the public hearing, staff heard from FEMA, who indicated the engineering analysis is needed and now staff appealed the Planning Commission's decision to the City Council. He referenced the council packet and noted on Page 9 includes the need for the engineering analysis. He reviewed the variance criteria that was included on page 11 of the staff report. He continued through the staff report and highlighted the criterion. He said based on correspondence between Staff and FEMA, there is not enough evidence to support approving the request without an H&H analysis. He said FEMA indicated they could revoke flood insurance for the City if the request were approved.

CA Attorney reviewed the legalities of the approval. He noted if the City Council granted a variance, they must ensure the variance does not conflict with any existing laws or ordinances.

Mayor Cross recognized the applicant. Debbie Scacco, Port of Toledo Manager addressed the City Council. She said the project was adopted in the Port's 2021 Strategic Business Plan update. She said they understand it is recommended not to approve variance, but request the City's support as they challenge the restrictions.

Mayor Cross opened the floor for any comments in favor, against and/or neutral comments. After hearing no comments, Mayor Cross asked the Council if they had any questions.

CA Adams identified the areas affected by the federal insurance coverage if the City lost coverage. The Council inquired whether the applicant had money to cover the H&H analysis and Ms. Scacco said they have on-going costs for the project. Several Council members expressed concern in regards to the requirement and stated they felt it was unnecessary.

Mayor Cross closed the public hearing at 7:01 p.m.

Motion – It was moved and seconded (Carey/Bush) based on the testimony received, the staff report, and the evidence and arguments before the City Council at the public hearing on January 18, 2023, and the findings made by the City Council in the public hearing, the City Council finds that the request by the Port of Toledo, (fpv-1-22) does not comply with the criteria identified in Toledo Municipal Code (TMC) 15.16.200 for a variance, TMC 15.16.220(d)(1)(a) and 44 CFR 60.3(d)(3) does require hydrologic and hydraulic analyses for development in the floodway, and so the request by the Port of Toledo is denied and the motion carried unanimously.

Ms. Scacco thanked the Council and their position on the situation.

4. VISITORS/PUBLIC COMMENT

There were no comments.

5. CONSENT AGENDA

Minutes from the executive session and regular meeting held December 7, 2022

Councilor Kauffman noted Todd Michels was listed instead of Councilor Bush.

Motion – It was moved and seconded (Mix/Carey) to approve the consent agenda as amended and the motion carried unanimously.

6. DISCUSSION ITEMS

Set date for City Council goal setting

CM Richter indicated Mayor Cross secured Pete Wall as the facilitator and wanted to select a date for goal setting. She said Mr. Wall is available most Saturdays in February and in the beginning of March. After discussion, the Council settled on Saturday February 11 and CM Richter said she would follow up with the Council.

CM Richter noted that several Council members are signed up for City Day at the Capital on January 25, which means there will be no quorum for the work session. There was a consensus of the Council to cancel the January 25 meeting.

Review timeline for City Council recruitment

CR Figueroa noted the packet includes a blank calendar so the Council may decide on a new deadline. The Council indicated they would keep the recruitment open and if an application is received, staff would extend the deadline two weeks from when the application was received in case there are additional applicants.

7. DECISION ITEMS

Approving an Intergovernmental Agreement with Lincoln City to protect against a dual-office holding allegation being made against the Municipal Court Judge

CA Adams provided the staff report. He noted the City can enter an Intergovernmental Agreement (IGA) with another municipality for Municipal Judge Services. He answered clarification questions in regards to the IGA for the Council.

Motion – It was moved and seconded (Kamikawa/Mix) to approve an Intergovernmental Agreement with Lincoln City for a Municipal Court Judge and the motion carried unanimously.

The Council took a short recess at 7:30 p.m. and reconvened at 7:34 p.m.

Provide direction for update to Seal Rock Water Agreement

CM Richter provided the council report and said she was contacted by District Manager Adam Denlinger. She said the agreement with the District expired December 31, 2022 and they are interested in keeping Toledo as a backup water source. She said before she began negotiations, she wanted to consult with the Council for direction. She indicated she and Mayor Cross participated in the negotiations last time and said she feels they [District] needs to pay for infrastructure as well. Mayor Cross said he would like to be involved again.

Motion – It was moved and seconded (Bush/Mix) to have the City Manager and Mayor to be the negotiating team for the Seal Rock Water District Agreement and the motion carried unanimously.

Ordinance No. 1406, an ordinance amending Toledo Municipal Code Chapter 1.16, Right of Entry for Inspections, and declaring an emergency

CA Adams delivered the council report and said a copy of the ordinance was posted for public review as required by the Municipal Code. There was discussion in regards to someone collecting greywater, pouring it down into the sewer system but not being connected to the City's system and whether it were considered theft of services. The Council discussed several scenarios where a sewer system is not needed.

Motion – It was moved and seconded (Carey/Kamikawa) to adopt by reading the title twice an ordinance of the Toledo City Council amending Toledo Municipal Code Chapter 1.16, Right of Entry for Inspections, and declaring an emergency and the motion carried unanimously.

Ordinance No. 1407, an ordinance amending Toledo Municipal Code Chapter 1.20

CA Adams presented the council report. There were no questions from the Council.

Motion – It was moved and seconded (Carey/Bush) to adopt by reading the title twice an ordinance of the Toledo City Council amending Toledo Municipal Code Chapter 1.20, and declaring an emergency and the motion carried unanimously.

Ordinance No. 1408, an ordinance creating Toledo Municipal Code Chapter 1.24, Legislative Subpoenas

CA Adams provided the council report.

Motion – It was moved and seconded (Bush/Mix) to adopt by reading title twice an ordinance of the Toledo City Council creating Toledo Municipal Code Chapter 1.24, and declaring an emergency and the motion carried unanimously.

Approval of Non-Represented Salary Schedule to reflect Cost of Living Adjustment of 3%

CM Richter summarized the council report. She said the contract with the Toledo Public Safety Association bargaining agreement was completed recently. She said they received a 4% salary increase and typically the non-represented salary schedule was presented after both agreements have been updated.

Motion – It was moved and seconded (Kamikawa/Carey) to approve the Non-Represented Salary Schedule to reflect 3.0% COLA retroactive to July 1, 2022 and the motion carried unanimously.

Consideration and approval of letter to the Governor from the City Council

Mayor Cross presented a report to the City Council and referenced the letter he distributed to the council before the meeting (a copy will be included with the archived packet). He said the letter is addressed to Governor Kotek in regards to her executive orders that excluded 26 counties, including Lincoln County from the homeless declaration of emergency. A consensus of the Council agreed with the letter provided by Mayor Cross.

8. REPORTS AND COMMENTS

PC Pace updated the Council on department activities.

PWD Zuspan said the department is finishing up the Inflow & Infiltration (I&I) projects. He said they found a void in some lines near 12th Street and the City had to fix that before they proceed with completing any I&I in that area.

CA Adams indicated he will be out of the office next week.

CM Richter said the audit extension request was approved. She noted she was on a Zoom call with CP Kamikawa and PWD Zuspan to review the draft Drinking Water Protection Plan, which will be presented to the Council in a future meeting. She said there will be future projects for the Council to consider based on that draft plan. She said there will be a change in the future for Council meetings. She said Staff will provide a ‘dashboard’ or report once a month to the Council instead of an oral report.

Councilor Kauffman noted motions adopting an ordinance do not need to include ‘read title twice’ and said it is a reminder for the Council to read the title twice.

Councilor Carey commented on serving as a Councilor and how Council members volunteer on other committees. He indicated that when the Council are at the dais and provide updates from their volunteer committees they must be cognizant of using the term “we” because that refers to the Council and not the committee.

Councilor Bush said she attended the first committee meeting of the Summer Festival and there was a lot of excitement. She said they are looking for more volunteers. She said they have a Facebook page for details and they are planning to have it on July 14-16.

Councilor Mix said she attended the Summer Festival meeting as well and it was good to see the support.

CP Kamikawa said she attended the Representative Wyden’s Town Hall recently. She said they indicated there will be a way for cities to contact their office in regards to infrastructure. She encouraged Councilors to participate on other committees the Council serves on such as Cascades West Area Commission on Transportation or the Solid Waste Committee for the County. Councilor Carey said he could serve on one of those committees in a few months.

Mayor Cross noted it was nice having a Council member attend the Port of Toledo or Pool District meetings and then provide updates to the Council. He said he was on a call this week with the Oregon Arts Commission, who would like to consider Art Toledo as an Arts District pilot program. He said he would be in contact with several others at the end of the month. He said the homelessness task force committee met recently and he will present some information to CM Richter for her signature. He reported on the Town Hall held by Senator Merkley and said it was very productive.

9. ADJOURNMENT

The meeting adjourned at 8:55 p.m.

Approve:

Attest:

/s/Mayor Rod Cross

/s/City Recorder Lisa Figueroa