

TOLEDO CITY COUNCIL MINUTES

January 21, 2009

Mayor Rod Cross called a regular meeting of the Toledo City Council to order at 7 pm. Councilors present: Wes Chadwick, Mark Camara, Nancy Lynne, Monica Lyons, Mary Young and Council President (CP) Bob Emmett.

Staff present: City Manager (CM) Michelle Amberg, Police Chief (PC) Mark Fandrey, Library Director (LD) Peter Rayment, Community Events and Business Relations Specialist Celeste Mathews, and Assistant City Recorder Nancy Bryant.

Visitors present: Angelo Stephenson, Stuart Miller, Bruce Parsons, Ila Jean Parsons, Janice Watson, Jay Watson, Ginger Tibbles, Lowell Neal, Lynn Mendenhall, Ramona Scarborough, Dana Scarborough, Terri Strom, Robert Smith, Deanne Dunlap, Randy Parsons, Ann Edmondson, Melanie Edmondson, Lorrie Syms, David Erwert, Joe Arriaga, Roy Criswell, Cody Grey, Don Amberg, Ken Tibbles, Walt Heller, Zita Heller, Stu Strom, Sandy Blackman, Terry Dillman and Kira Morgan.

Visitor Comments:

After clarifying with council that there would be an opportunity for visitors to speak after each discussion and decision item on the agenda both Angelo Stephenson and Ann Edmondson chose to hold their comments until later in the meeting.

Consent Calendar:

Motion-It was moved and seconded (Camara/Emmett) to approve the consent calendar consisting of the invoice list dated January 16, 2009, council minutes dated January 7, 2009 and surplus property declaration-Library.

Motion passed 7-0.

Discussion and Information Items

Toledo Development Association Projects Update

Celeste Mathews and Deanne Dunlap provided Council with an update on the Toledo Development Association (TDA) projects over the last 4 years.

Highlights are as follows:

- The Toledo Development Association, spearheaded by Angelo Stephenson, formed in 2006 as a non-profit corporation.
- Their mission is to explore future economic growth and encourage economic diversity and vitality in Toledo. Its board has representatives from the Port of Toledo, the City, Chamber of Commerce, the Arts Community, Businesses, Citizens and Civic groups.
- Participants in community meetings held during 2006 and 2007 identified Art, Industry and Skilled Crafts as strong assets of our working community.
- In 2007 TDA received a \$10,000 Rural Business Enterprise grant from the US Department of Agriculture to inventory the assets of the business community, identify catalyst projects, and develop an action plan to support the development of businesses focusing on handcrafted items. A Made in Toledo initiative action plan was adopted by the group in

2008. The initiative seeks to build on the existing strengths of Toledo, the art community, wood products and marine and other industries as well as creative clusters.

- In November of 2008 the City of Toledo and the TDA applied for and received assistance with downtown revitalization from Oregon Department of Economic Development. Through this assistance, consultants Vicki Dugger and Pam Silbernagel have been working with members of TDA in implementing the Made in Toledo initiative.
- The City of Toledo also joined the Oregon Main Street Program in 2008. The Oregon Main Street Program has its own structure of work to revitalize downtown so they have aligned it with TDA's Made in Toledo plan establishing continuity between the plans.
- Two additional grants have been received to fund aspects of the plan. They started with the Buy Local Campaign to encourage local investment in Toledo's businesses and the second was the Try Toledo First campaign. This grant pays for a website that will list goods and services available in Toledo, marketing the website and two interpretive signs about Georgia Pacific and the Marine Industry in Toledo. The websites are scheduled to be ready by June of 2009.

Mathews stated that TDA is trying to make all the assistance programs work together to strengthen and revitalize our industry and look toward the future for possibilities of economic development in our town.

Mayor Cross thanked Mathews, Dunlap and all of the TDA Committee for their work on these projects.

Dunlap announced the TDA meetings are held on the second and fourth Thursday of each month at 7am at the Toledo City Council Chambers and they are open to increasing their membership.

Toledo Citizens Involvement Committee Update

Stuart Miller, spokesperson for the Toledo Citizens' Involvement Committee (TCIC) first stated that his reason for appearing before council is not to voice opposition to the sighting of an asphalt plant or any other industry within the City of Toledo but to offer testimony as to why the city has, to date, taken appropriate action in regards to its interpretation of its own zoning ordinance. He said TCIC enlisted the services of an attorney specializing in Land Use Law due to the obvious difficulties the city is facing in deciding the proper course of action regarding a proposed asphalt plant within the Toledo Industrial Property (TIP). It is their assertion that the advice offered thus far is by those with a vested interest in making a lawsuit go away rather than what is the correct course of action that best represents the city and its citizens. They believe the city insurance company's attorney has given advice aimed at limiting their potential liability and not aimed at what is best for the citizens of this city.

He then read a letter composed by Attorney James D. Brown on behalf of Stuart Miller and the TCIC dated January 21, 2009 regarding the Development of Asphalt Plant at Toledo Industrial Park Phase 2.

In summary, Mr. Brown's letter stated that the city has properly interpreted the Toledo Zoning Ordinance (TZO) to require a conditional use permit to undertake such a development because the

potential adverse impacts to commercial and residential uses in the vicinity of the subject property mandate a public process to inform concerned residents regarding the scope of the proposed development and provide them with the opportunity to voice any questions or concerns. As no conditional use application is pending, the city is not required to take any action at this time, nor should the city until additional information regarding the proposed development is available. However, the city may amend the TZO at any point to clarify the requirements for review of any future application to site an asphalt plant within the city's boundaries.

The city has confirmed in writing that a conditional use permit is required for development of an asphalt plant. Until the owner has applied for and received the required land use permits, a DEQ Land Use Compatibility Statement (LUCS) is premature and unsupported. The city has appropriately declined to issue a LUCS at this point in time and there is no mandate time for the City to act on the owner's current request for a LUCS.

Miller urged the City to keep on the current course of action. He said stick by the city planner who has said that an asphalt plant is a conditional use.

Public comment

Angelo Stephenson asked council if they plan to proceed forward and sign the LUCS form.

Mayor Cross said the form has been given to the City Planner with the instruction to do his job as per the requirements of the form.

Stephenson then asked Council if it is their view that the asphalt plant is an outright use.

Mayor Cross stated that they cannot make that determination until the issue is formally presented to Council.

Councilor Camara said they are obligated to keep an open mind until they have information presented to them in the course of proper procedure.

Stephenson said his concern is that the information Council has been receiving is case law that is 10 years old. The decision that the city makes regarding this issue will impact this city for 100 years to come or more.

Stephenson requested that the letter from Attorney Brown be presented to the City Planner.

Miller inquired from Council whether the City Planner has received the same advice as council in executive sessions regarding this issue.

Mayor Cross said the City Planner has not been part of the executive session meetings.

Lowell Neal told council that he thought Attorney Kurt Carstens was abusive and beyond being disrespectful to council at the January 7th meeting. He is concerned about the comment Mr. Carstens made regarding spoils dumped on Mr. Wienert's property. He said this is new

information that came out at that meeting. The City now has an obligation, when meeting with the mitigation team, to notify them of the fill. He recommended the City get an exit statement from the retiring City Attorney regarding any knowledge he may or may not have of an illegal fill on the Toledo Industrial Property. Neal also said that Carstens ended his presentation with a threat of Writ of Mandamus and Neal does not believe they have ground to stand on in that threat.

Neal said we need the conditional use so that we know what the traffic will be like. He said we have a right to ask how much and what kind and what hours, through a conditional use permit. Without that Wienert will be doing what he wants and running trucks at any hour.

CA Amberg informed council that Mr. Neal has notified staff that he is filing this with EPA. In response staff is investigating the possible impact on the mitigation agreement that is so close to being finished. The Public Works Director will provide a detailed report at the next council work session meeting.

Miller stated in side discussions they had with counsel regarding the potential of an EPA problem with spoils or fill it is not believed that the city is at fault for putting that fill there regardless if the spoils were placed on site by the city or not. The act of putting the spoils into the wetland area would be the question in that case.

Joe Arriaga stated at the last council meeting Mr. Carstens said the city put a sewer line across Mr. Wienert's property without an easement. The information that Mr. Arriaga received is that the sewer line was put in when the City Shops were built and the line doesn't go across Mr. Wienert property so the information that Carstens gave council was not correct.

CM Amberg explained her hesitancy with the request that the information from Attorney Brown be presented to the City Planner. She said a lot of care and consideration has been taken by council to not prejudice the City Planner one way or another in his decision. While this information is beneficial she is hesitant because of that prejudicial influence it might have on him. What she has directed the City Planner to do is handle the LUCS exactly as if it were any other application; to use his planning expertise regardless of the surrounding legal issues or requests.

Miller noted that the City Planner was in attendance on January 7th, 2009 during the long presentation by Mr. Carstens who presented incorrect insertions. He believes that it is important that the City Planner see information that counter balances what he has already heard.

Mayor Cross stated the City Manager will give the City Planner the letter but they are trying to keep this as clean as possible.

Mayor Cross called for a 5 minute recess at 7:49pm.

The meeting resumed at 8: 01pm.

Decision Items:

STOP Committee Request

Sandy Blackman of the Support Toledo Pool (STOP) Committee provided Council with the following update of STOP activities.

- The 10 member Advisory Board meets monthly and includes Toledo city employees Michelle Amberg and Peter Rayment as well as Naomi Shadwick who is a grant writer for the Confederated Tribes of Siletz.
- She said STOP has raised \$11,000 in donations.
- With the help of STOP an energy audit and geothermal evaluation of the pool and surrounding area have been completed. The results of both studies will be evaluated and shared soon.
- With an emphasis on going “green” STOP is looking at increasing the revenue of the pool.
- They are focusing on increasing the usage of the pool and lowering the energy costs to run the pool.
- They are in the process of evaluating different grants to apply for as well as a survey to help with grant information.
- The organization has 90 members and continues to recruit more.

The mission of the Support Toledo Pool committee is to provide immediate and long term assistance to the City of Toledo in sustaining the function and infrastructure of the Toledo Pool through community education, fund raising, research and grant application.

The STOP Advisory Board is requesting a change made to the City of Toledo Pool membership forms. They request language added to the forms to allow pool members the option to join STOP or donate to the organization. She said STOP members would not share pool member’s personal information. It will only be used for STOP agenda items.

There was general discussion regarding how the membership information is collected, what the options would be on the form and how the money would pass through to STOP.

Public Comment

There was none.

Motion-It was moved and seconded (Emmett/Lyons) to accept the requested change to the pool membership form to include the STOP information as noted for fundraising and membership recruitment.

Motion Amended by Camara to add that the decision be reviewed by the City Attorney before it goes into effect.

Motion amendment accepted by Councilors Emmett and Lyons. **Motion passed 7-0.**

Streets Update

CM Amberg explained to council that recently, an emergency response vehicle was called to an address on NW Arcadia Road, but was slow in arriving because of confusion with NW Arcadia

Drive, a nearby street. Apparently these types of confusion are common between these streets. The City has asked if the street name could be changed to avoid further problems. The suggested change that is most supported is to change it to NW Old Arcadia Road. The Planning Commission endorses the idea as do Chief Ewing and Chief Fandrey.

There was a general discussion regarding Global Positioning System (GPS) updates and Post Office notification.

Councilor Lyons asked if all of the residents on this street are in agreement to the name change.

CM Amberg stated there are six property owners on the street. Of those six, four support a change and one does not. There is one house that is vacant and for sale. She also provided Council with a petition signed by those residents who are in agreement to the change.

Public Comment

Ann Edmondson provided testimony in opposition to the street name change. She owns the first house on Arcadia Road and has lived there for 32 years. She has never seen a problem with the exception of the one recent incident. She believes the best solution is to educate the police dept, fire dept, medical response people and the post office. She said if those people have those types of jobs they need to know their streets. She is concerned for her household mail and the work it will take to change her mailing address.

Councilor Young stated there are other city streets with the same type of issue that the city is reviewing as well. She also said that because there is no numerical change to the addresses the postal transition period will be long term.

Melanie Edmondson asked if the emergency response people are relying on GPS then why is it hard to find Arcadia Road as opposed to Arcadia Drive.

CM Amberg stated that in the recent incident the emergency response team was dispatched to the wrong street.

Melody Edmondson then stated the problem is in their communication rather than an issue with the address.

Police Chief Fandrey said the testimony in opposition tonight is correct. The officers need to know the roads but there can be miscommunications in dispatch. The ambulance is dispatched through LinCom and those dispatchers are not as familiar with Toledo streets. They may not know to ask if it is Arcadia Drive or Arcadia Road. The bigger problem that Toledo has seen are the general or cell phone 911 calls that don't identify the addresses, a lot of those people calling don't know if they are on road or drive. He is in support of the change.

Councilor Chadwick asked whether this change is sufficient to avoid confusion.

PC Fandrey said yes but some of the residents from the changed street may not remember the new name in a state of emergency. It is a matter of both renaming the street names and educating the emergency response people on navigating the city streets. He has seen other incidents that response time was delayed because of the confusion between Arcadia Drive and Arcadia Road.

Mayor Cross said he would like to see all 5 residents of the neighborhood happy with the decision.

CM Amberg stated that the City Planner suggested the change from NW Arcadia Road to NW Old Arcadia Road because it would be easier for the residents to change their addresses and an easier transition without a radical shift to a totally new name.

Councilor Young stated that she spoke to the Toledo Post Master approximately six months ago regarding the street name change. She was told as long as the house numbers don't change there will not be a six month change of address requirement for the residents on this street.

Motion-It was moved and seconded (Camara/Young) to approve renaming NW Arcadia Road to NW Old Arcadia Road and inform the residents and the post office as to the action so all necessary steps can be taken. **Motion passed 7-0.**

Appoint Council Representative

Mayor Cross announced that he will no longer be able to serve as the City Council Board Representative to the Cascades West Council of Governments.

After some discussion regarding the meeting place and times, the representative's role and the make up of the board, Councilor Young volunteered.

Mayor Cross appointed Councilor Mary Young as the City Council Board Representative to the Cascades West Council of Governments.

Reports and Comments:

Department Reports

PC Fandrey introduced the two new officers hired after the recent recruitment process.

Officer Jeremy Gautney successfully passed all phases of the recruitment process as well as his physical examination, a pre-employment drug screening, and the law enforcement psychological screen. Officer Gautney is a second generation in his family to become a police officer; his father is a lieutenant with the Bend Police Department. He understands the importance of strong structure and discipline to make a police department successful in the community. He has been a reserve deputy with the Crook County Sheriff's Office and he is currently in Toledo's field training program. He is scheduled to attend the basic Police Academy in March and tentatively scheduled to complete his basic training with Toledo in early July.

Officer Tom Harrison was hired last month in phase two of the recruitment process. Officer Harrison worked with the Toledo Police Department (TPD) from November 2005 through September 2008 at which time he left Toledo to work for the Benton County Sheriff's Office.

During his three years with the TPD PC Fandrey watched Officer Harrison develop into a very reliable and productive police officer. He was awarded the Toledo Police Officer of the Year award last year. His return to the TPD has had several positive impacts. His experience improves the department's capabilities in deterring and detecting crime today as opposed to an entry level officer. His knowledge of the TPD and the community allowed him to work solo immediately. His hire afforded the department to meet the man power level to put the detective on full time in investigations.

Council welcomed Officers Gautney and Harrison.

City Manager's Report

(CM) Amberg reported the following;

- Staff is hoping the City Council Chambers will be ready for the meeting next week.
- Council Goal Setting Session is set for February 7th from 9am to 5pm.
- The Port of Toledo has requested a joint meeting with City Council. They would like to host the meeting on February 24th. If council needs an alternate evening they can contact the City Manager or the City Recorder to reschedule the meeting.
- She noted her appreciation to the Lincoln County Clerk for the loan of the audio recording equipment used tonight.
- There is still a vacancy on the planning commission that needs to be filled.

Council Comments

Councilor Camara welcomed the two new police officers. He also said he is proud of this town for the way they can have a civilized meeting even through a contentious issue.

Councilor Lyons apologized for missing the executive session on Monday evening. She is feeling much better.

CP Emmett attended the Lincoln County Transit meeting. He said they are suffering with the same issues that we are with money. They realize that there is a serious issue of transportation for people of Toledo as well as getting over the bridge to Hatfield Marine Science Center and the Community College. He has asked that they look at a Sunday bus service. They are also working on reallocating and realigning some of the routes.

Councilor Young encouraged Ann Edmondson to volunteer for the planning commission vacancy.

Mayor Cross encouraged Melanie Edmondson to volunteer for the planning commission vacancy. He said a younger resident of Toledo would be very welcome on that commission.

Mayor Comments

Mayor Cross reported the following:

- He will be attending the Oregon Mayor Association on Wednesday at the State Capital and he is scheduled to have approximately one hour of time with our State Representative. He welcomed suggestions for discussion while he is there.

- On February 12th he will be attending the Lincoln County Emergency Preparedness Services earthquake tsunami briefing. They will go through what the city council type leadership level responsibilities will be in that type of a disaster.
- He agreed with Councilor Camara in regards to the audience tonight. He said the more the community is involved and listens to what is going on the better our government is.

Mayor Cross called a brief recess at 8:54 pm and announced an executive session will follow.

The Council meeting resumed at 9:04 pm and Mayor Cross called for an executive session according to ORS 192.660(2) concerning (e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions and (h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Executive Session:

Council discussed litigation issues.

Adjournment:

The Council returned to regular session and the meeting adjourned at 9:21 pm.

ATTEST:

APPROVE:

Assistant City Recorder

Mayor