

TOLEDO CITY COUNCIL MINUTES  
REGULAR SESSION  
February 3, 2016

Mayor Billie Jo Smith called the meeting to order at 7:00pm. Councilors present: Julie Rockwell, Jackie Kauffman, Alma Baxter, Michele Johnson, Terri Strom and Council President (CP) Jill Lyon. Councilors absent: none.

Staff present: City Manager (CM) Jay Baughman, City Attorney/Planner (CA) Michael Adams, Police Chief (PC) Dave Enyeart, Public Works Director (PWD) Lee Ritzman, and Assistant City Recorder (ACR) Melodi McGee.

Visitors present: Deanne Dunlap, Bill Farley, Jerry Seth, Corey Sampson, Janice Watson, Lori Edwards, Clint Funderburg, Norman Thompson, Geoff Wilkie and Luke Whittaker.

**Visitors/Public Comment**

Norman Thompson of Toledo, expressed concern about the increases in garbage collection rates that were approved by City Council in June 2015. He asked Council to explain how the increase came about and stated that previous increases were to allow for fuel costs. He said that the increases should affect the business side and not residential customers, and asked why rates are increasing while fuel prices have decreased. He noted that previous rate increases required thorough documentation. He indicated that the current cost amounts to a 60% increase over previous years.

Councilor Baxter explained that Dahl proposed the increase and explained to Council that they need to replace their fleet. CP Lyon stated that two years ago the cost for residential curbside service was \$19.95 and that prior to 2014 the rate had not been increased in many years. Mr. Thompson clarified that his concerns were for the rates for service at the transfer station outside of Toledo city limits. CM Baughman stated that the City has no jurisdiction over rates charged at the transfer station, only the costs of curbside service within city limits.

Mr. Thompson asked when the rate increases would end. He noted that Dahl formerly offered free brush drop-off service but now charge by the yard. Councilor Johnson noted that the yard debris was originally sold to Georgia Pacific and that when the mill changed to natural gas they no longer require the brush for fuel. Offering free brush disposal is no longer cost effective for Dahl Disposal, who must now pay to dispose of it. She further explained that Dahl is trying to meet the rates of the surrounding communities and is compensating for increased operation costs in small increments. CA Adams noted that state regulations on land fill costs have also affected the costs of operation. CP Lyon suggested that Mr. Thompson go to the Solid Waste Advisory Committee to address his concerns regarding prices at the transfer station.

**Consent Calendar**

**Motion-** It was moved and seconded (Lyon/Baxter) to approve the consent calendar consisting of the City Council minutes of January 12, 2016 and January 20, 2016, and a request to surplus property from the Police Department. **Motion passed 7-0.**

**Discussion and Information Items**

## **Committee Updates**

There were none.

## **Public Hearing**

Mayor Smith opened the public hearing at 7:15 pm regarding the Zoning Ordinance amendment to modify regulations in the Commercial Zone, Light-Industrial Zone, Industrial Zone, Home Occupation Uses, and Conditional Use Standards, requested by the City of Toledo. Mayor Smith then called for a declaration of conflict of interest, ex parte contact or bias; seeing none, she read the statement of rights, relevance, and the right to appeal.

## **Staff Report**

CA Adams explained the proposal to amend the Toledo Municipal Code to allow marijuana retailer as a conditional use in the Commercial Zone; to allow marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Light Industrial (LI) and Industrial (I) zoning districts; to prohibit marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, and marijuana laboratory as home occupation uses in the residential zones; and to create additional standards when a conditional use is approved in a zone. He noted that Oregon voters approved Ballot Measure 91 in November 2014, legalizing the personal use and possession of adult recreational marijuana on July 1, 2015, with certain limitations, including restrictions on use in public, no growing in public view, a restriction on minors attempting to buy or entering licensed premises, prohibiting the sale or use by persons under 21, and imposing licensing and other requirements on marijuana cultivation, processing and dispensing facilities. The measure, as amended by the Oregon State Legislature in 2015 (House Bill 3400 A, Section 33), authorizes reasonable conditions on the manner in which licensed retailers, processors, producers, wholesalers, and laboratories, may sell marijuana; reasonable limitations on the hours during which a licensed marijuana facility may sell marijuana items; reasonable requirements related to a public's access to a licensed premises; reasonable distance between facilities (1000 feet); and reasonable limitations on where a licensed premises may be located. He noted that such regulations must be consistent with the City's comprehensive plan, development code and public health and safety laws. He explained that Proposed Ordinance 1360 establishes standards for these uses and where the licensed facilities may be located.

Mayor Smith thanked CA Adams and the members of the Planning Commission for their work on this issue.

## **Applicant Testimony**

The City of Toledo is the applicant and there was no further applicant testimony.

## **Proponent Testimony**

Corey Sampson of Hawaii stated that he is interested in opening a recreational and medical dispensary in Toledo. He explained that he has met with CA Adams to look at several potential dispensary locations within the City. He expressed concern over the 1,000 foot radial buffer zone, noting that it severely limits the available retail space for this kind of business. He explained that Toledo is appealing to him because he owns a commercial fishing fleet and would like to relocate his boats to the Port. He stated that in Portland, the buffer zones overlap in most areas and he would like City Council to reconsider the 1,000 foot requirement. CA Adams explained that the 1,000 foot radial buffer requirement is consistent with the State's regulations and is the minimum requirement.

Lori Edwards of Toledo, stated that she is in favor of the proposed zoning ordinance amendment. She stated that she is in the process of opening a recreational and medical dispensary on Main Street and has completed necessary applications.

**Opponent Testimony**

There was none.

**Other Interested Parties or Government Agencies Testimony**

There was none.

**Rebuttal by Applicant**

There was none.

**Questions by Council**

Councilor Baxter inquired about permitting retail sales of recreation marijuana under Section 17.020.030 (L) of the Staff Report regarding Additional Uses in Light Industrial. Councilor Lyon asked CA Adams if there were any state statutes or local public policies that prohibited retail sales in light industrial. Mayor Smith noted that sales of medical marijuana is permitted in the light industrial zone by Ordinance 1357 of the Toledo Municipal Code. Councilor Lyon explained that medical marijuana is regulated differently because it is considered a medical dispensary rather than a retail outlet. CA Adams explained that the proposed ordinance is in direct compliance with State, Oregon Liquor Control Commission and Oregon Health Authority regulations. CA Adams explained that the proposed ordinance could be amended to allow for a conditional use, a business owner could apply for a variance to open a retail marijuana dispensary if an medical dispensary is already established and approved, but retail sales in the light industrial zone is not granted outright.

By consensus of Council the following amendment was made to the proposed ordinance:

**17.20.030 Conditional uses permitted**

- (M) Marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory. Marijuana retailer may be approved when medical marijuana dispensary facility is an approved use at the same site.

Mayor Smith asked about the definition for “recreational marijuana business”, noting that the phrase is not used anywhere in the document. After some discussion, by consensus of Council, the definition for “recreational marijuana business” was struck from the proposed ordinance.

Mayor Smith closed the public hearing at 8:27pm.

**Decision Items**

**Consider an Ordinance Relating to the Regulation Marijuana**

There was no additional discussion regarding the proposed ordinance.

**Motion-** It was moved and seconded (Lyon/Baxter) as follows: incorporating the amendments proposed by City Council during the public hearing of February 3, 2016 to approve the proposed amendment to the Toledo Municipal Code based on the testimony received, the findings within the

staff report, the Planning Commission findings and recommendations, and the evidence and arguments before the City Council at the public hearing on February 3, 2016. The City Council determines that the request by the City of Toledo (ZOA-1-15) to amend Sections §17.04.020, §17.16.030, §17.20.030, §17.24.030, §17.46.080, §17.64.050, and repeal Subsections (C) and (D), and create Subsection (B), of §17.64.050, of the Toledo Municipal Code, complies with the criteria identified in TMC 19.20.070(A)-(D) as stated in the findings contained in the Staff Report. The City Council hereby adopts the staff report as findings and the other evidence in the record as findings supporting its decision and approves application ZOA-1-15. In addition, the City Council adopts Ordinance No. 1360, “AN ORDINANCE AMENDING SECTIONS 17.04.020, 17.16.030, 17.20.030, 17.24.030 17.46.080, 17.64.050, AND REPEALING SUBSECTIONS OF 17.64.050, OF THE TOLEDO MUNICIPAL CODE, RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; AND, DECLARING AN EMERGENCY”.

**Motion passed 7-0.**

#### **Consider the Appointment of Jerry Seth to the Budget Committee**

CM Baughman explained that two vacancies exist on the Budget Committee for three-year terms expiring on December 31, 2018. He stated that Jerry Seth has previously served as a Budget Committee member and has expressed interest in serving an additional term.

Public comment:

There was no public comment.

Mayor Smith expressed her appreciation in Mr. Seth’s willingness to serve on the Budget Commission for an additional term.

**Motion-** It was moved and seconded (Baxter/Johnson) to suspend council rules and appoint Jerry Seth to the Budget Committee for a three-year term ending December 31, 2018.

**Motion passed 7-0.**

### **Reports and Comments**

#### **Department Reports**

There were none.

#### **City Manager’s Report**

CM Baughman reported the following:

- The City of Newport is hosting an “Active Shooter” training for local civilians and business owners. Members of City Council and city employees are invited to attend. The training will be held at various times on February 10<sup>th</sup> and February 11, 2016.
- Staff has been working on an agreement with Georgia Pacific to allow temporary parking at the Toledo Industrial area during mill construction. A similar agreement has been made with the mill in the past.

#### **Council Comments**

Councilor Strom reported that the Valentine Hearts are up on street lights around town. Mayor Smith expressed her appreciation for this festive tradition in Toledo.

CP Lyon reported that Georgia Pacific is donating their 45-ton yellow locomotive to the Yaquina Pacific Railroad Historical Society. The locomotive will be moved on February 8<sup>th</sup> and the official dedication will be held on Saturday, February 20<sup>th</sup>, 2016 at 2pm. The public is invited to attend.

Refreshments will be served.

**Mayor Comments**

Mayor Smith stated that she is feeling better since her hip replacement surgery and thanked the community for their concern and well wishes.

**Adjournment:**

The meeting adjourned the meeting at 8:42pm.

ATTEST:

  
Assistant City Recorder      Mayor

APPROVE:

