

City of Othello  
Regular Council Meeting  
May 26, 2015

**CALL TO ORDER:**

Mayor Shawn Logan called the meeting to order at 7:00 p.m. and Councilmember Garza led an invocation and the Pledge of Allegiance.

**Present:** Mayor Shawn Logan; Councilmembers: Eugene Bain, Genna Dorow, Corey Everett, Angel Garza, Kenneth Johnson, John Lallas, and Mark Snyder.

**Also Present:** City Administrator Wade Farris; Department Heads: Police Chief Phil Schenck, Community Development Director Travis Goddard, City Clerk Debbie Kudrna, Finance Officer Spencer Williams and City Attorney Kelly Konkright.

**CITIZEN INPUT**

There was none.

**APPROVAL OF AGENDA**

Council carried a motion to approve the agenda. M/S Bain/Dorow.

**CONSENT AGENDA:**

- A. Approval of City Council Minutes of May 11, 2015.
- B. Approval of Accounts Payable Checks.

Accounts Payable was audited and certified by the Auditing Officer, as required by RCW 42.24.080; and those expense reimbursement claims certified and as required by RCW 42.24.090, have been recorded on a listing that has been reviewed by the Council audit committee and is available to the Council.

Accounts Payable Check No. 5152 to No. 5152 in the amount of \$55.00.

Accounts Payable Check No. 45309 to No. 45360 in the amount of \$215,276.99.

Council carried a motion to approve the Consent Agenda, as presented. M/S Dorow/Garza.

**OATH OF OFFICE – POLICE OFFICER ANTHONY HAYDEN**

Mayor Logan introduced newly appointed Police Officer Anthony Hayden and administered the Oath of Office. Mrs. Hayden pinned his officer pin on him.

**PUBLIC HEARING FOR GARZA VACATION**

Mayor Logan opened the public hearing at 7:07 p.m. Community Development Director Travis Goddard introduced the Garza/Roosevelt Avenue vacation. He reviewed the vicinity of the vacation, which includes a portion of Roosevelt Avenue and an east/west half-width right-of-way. As part of the vacation request, the City has the authority to require an access and utility easements to replace the right-of-way that is being vacated. The City is requesting a 20' right-of-way to follow the City water line currently in Roosevelt Avenue and an access and utility easement of the entire east/west connector of the half-width right-of-way. It affects four property owners and multiple parcels. Mr. Garza owns a majority of the property. Staff contacted the property owners affected by the potential vacation. Staff could not reach one of the adjacent property owners, Mr. Pierce; however the other adjacent property owners Mr. Gomez, Mr. Garza, and the Yorgeson family all support the vacation.

Mr. Goddard explained that the Othello School District (OSD) transportation facility being constructed at the south end of Roosevelt Avenue is required to install an emergency vehicle access point. This access would require the removal and reconstruction of a portion of Roosevelt Avenue to a standard that may be a lower quality road than how the current roadbed exists. Then, at some point, the City may be put in a position where it would need to replace Roosevelt with a full width street section that includes paving, curb, gutter, and sidewalk. However, city staff identified an alternative solution that involves the vacation of the right-of-way so that the OSD's improvements would be a private access easement and not a public improvement.

City of Othello  
Regular Council Meeting  
May 26, 2015

The business owner, Mr. Garza met with staff and understands the implication of the vacation; that the ROW would be returned to adjacent property owners and they will have to maintain it in a condition that could be used for an access by the Fire Department. Mr. Garza understands he could have minor tax increases, and agreed to participate in the vacation.

Mr. Goddard explained that staff expanded the vacation to include the east-west 1/2 width right-of-way from E 1<sup>st</sup> Avenue to Highway 24. All property owners agreed to the proposed vacation, excluding Mr. Pierce, who did not respond to the City. Mr. Goddard reported that the vacated property will become part of the existing zones.

Mr. Goddard noted that there are buildings constructed over multiple property lines on Mr. Garza's property and the property that the two storage buildings are located. Under OMC 1.56.150, it provides that they are then to be consolidated and any future redevelopment of those sites would trigger a consolidated plat. Vacations are authorized under RCW 35.79 which authorizes the City to retain easements and receive compensation and also some provisions of OMC 19.07.080. Given this vacation was advocated by staff, City staff does not feel that compensation is warranted. Staff also recommends approval of the vacations, subject to Section 7 of the Ordinance, which notifies the applicant that if they should build, add on or redevelop the property, they would need to bring the property up to current city codes.

Councilmember Garza noted this area gets very soft during wet weather conditions. Mr. Goddard stated that the road has to be compacted to support the weight of the emergency vehicles, which is 55,000 gross vehicle weight. The current condition of the right-of-way is better than that and removal and replacement is likely to break through the clay layer and subsurface water may rise. Ultimately, the School District and the property owner could put additional gravel on it without the City's involvement. Mr. Farris advised that a company performed core samplings and they certified that it would support a fire vehicle. Mr. Goddard advised that the School District will need to maintain the vacated alley as an emergency access.

Councilmember Garza asked how it will be designated as an emergency access lane. Mr. Goddard noted this has not been discussed yet.

Mayor Logan asked for public testimony. There was none. Mayor Logan asked for Council comments. There were no further comments.

#### ORDINANCE TO VACATE AN ALLEY RIGHT-OF-WAY

Council carried a motion to adopt the Ordinance to vacate a portion of Roosevelt Avenue and the alley right-of-way. M/S Johnson/Dorow. This shall be known as Ordinance No. 1433.

Mayor Logan closed the public hearing at 7:30 p.m.

#### PUBLIC HEARING ON THE MORATORIUM PROHIBITING MARIJUANA PRODUCTION, PROCESSING AND RETAIL SALES AND MARIJUANA GARDENS

Mayor Logan opened the public hearing at 7:31 p.m. City Attorney Kelly Konkright explained that in December, 2014, the Council approved a moratorium for medical and recreational marijuana. Part of that consideration was because there was pending legislation and pending litigation regarding cities abilities to zone those uses and a lack of information from the Liquor Control Board, now known as the Liquor Cannabis Board, of the secondary impacts of retail and medical marijuana establishments, collective gardens and production facilities. The Council approved a 6 month moratorium, which will expire June, 2015. This public hearing is being held to find out how Council wants to move forward.

Mr. Konkright advised that the Supreme Court issued a decision in the Cannabis Coalition vs. the City of Kent lawsuit. Their decision upholds municipality's abilities to ban collective gardens by

City of Othello  
Regular Council Meeting  
May 26, 2015

the use of zoning. He noted that that reasoning could be applied to recreational marijuana zoning. However, collective gardens will become obsolete as of July 1, 2016, as passed by the State Legislature, who passed an ordinance clarifying state regulation of medicinal marijuana and how it's grown and distributed, and abolishes collective gardens and replaces it with co-operative gardens. Co-operative gardens can then exist in a residence and can include up to four people and will be controlled and licensed through the Liquor Cannabis Board. This new law may limit the Council's ability to regulate zoning of co-operative gardens and recreational marijuana retailers. Mr. Konkright recommends that Council extend the six month moratorium in order to provide staff direction on where they want to go with considering ordinances to regulate medicinal and recreational marijuana and provide time to study the secondary impacts. He also recommended that Council review what other municipalities have been challenged with.

Mayor Logan asked for citizen comments. There was none. Mayor Logan asked for Council comments. There was none. Mayor Logan closed the public hearing at 7:39 p.m.

Council carried a motion to extend this moratorium. M/S Dorow/Bain. (*An ordinance will be presented to the Council at the June 8, 2015 Council meeting.*)

**APPOINT BRIAN GENTRY TO THE OTHELLO PLANNING COMMISSION**

Council confirmed the appointment of Brian Gentry to the Othello Planning Commission. M/S Dorow/Garza.

**APPOINT MARIA QUEZADA TO THE INDEPENDENT SALARY COMMITTEE**

Council confirmed the appointment of Maria Quezada to the Independent Salary Committee. M/S Bain/Johnson.

**JUNE 1, 2015 WORKSHOP**

Mayor Logan advised that there are no agenda items currently on the workshop agenda. Council's consensus was to cancel the June 1, 2015 Council workshop.

**UNFINISHED BUSINESS**

City Administrator Wade Farris advised that Well #3 is now operating. Well #6 is being worked on and may be back in operation next week. After Well #6 is operational, the contractor will return to Well #3 to work on the vibration. He reported that the well liner has been installed in Well #9 and it may be operational early July.

Councilmember Snyder asked for an update of 14<sup>th</sup> Avenue. Mr. Farris advised the 14<sup>th</sup> Avenue street plans are being reviewed and staff is working on the agreements for the improvements. Councilmember Johnson voiced concern of the delay of bidding the project this late in the year. Mr. Farris advised that the grant funding will not be in jeopardy and 1<sup>st</sup> Avenue needs to be completed. He reported that the 14<sup>th</sup> Avenue street project can go out to bid to 2017, if needed. Mr. Farris advised that the Street Committee could review the current status of the street projects in the next week or so. Councilmember Snyder noted that construction of 14<sup>th</sup> Avenue would not be good when school is in session in the fall. Mayor Logan advised that he and City staff are frustrated with the delayed process of the 14<sup>th</sup> Avenue street project; noting that it should have been out for bid earlier. Finance Officer Williams advised that he has correspondence from the Department of Commerce that assures us the funding for the next two-three years and we are already receiving a percentage for the engineering costs. Councilmember Johnson asked how much Gray & Osborne has been paid on the project. This will be produced by the finance department.

Councilmember Bain asked staff to look at the conditions of 1<sup>st</sup> Avenue and SR 26 intersection and asked if there are grants available. He advised that the street is in bad condition since trucks are using it heavily. Mr. Farris advised that he originally thought that section of 1<sup>st</sup> Avenue was going to be repaired; however, the engineers worked on north 1<sup>st</sup> Avenue. He advised that they will research grants for the improvements. Council voiced concerns that DOT changed the use of

City of Othello  
Regular Council Meeting  
May 26, 2015

the intersection and they should be asked for funding for the improvements. Mayor Logan suggested that the street committee meet with the new engineering firm and start evaluating streets that need improvements and grant opportunities. Attorney Konkright will discuss with the City of Airway Heights how they proceeded with improvements to the state highway that goes through their community and what funding was available for them.

**NEW BUSINESS**

Mayor Logan advised that Adams County Pet Rescue and the City is hosting a vaccination clinic this Saturday in front of City Hall.

**EXECUTIVE SESSION**

Mayor Logan announced that the Council will now adjourn at 7:58 p.m. to go into an executive session pursuant to RCW 42.30.110 (1) (i) "To discuss with legal relevant to potential litigation. He advised that Council may take some action after the executive session. The executive session is expected to last 15 minutes. City Administrator Wade Farris and Attorney Konkright were in attendance. At 8:15 p.m. Attorney Konkright announced that they were extending the executive session an additional 15 minutes. At 8:21 p.m. Councilmember Garza excused himself from the executive session.

Mayor Logan reconvened the Council meeting at 8:25 p.m. He advised there will be no action taken by the Council.

**ADJOURNMENT**

With no further items to discuss, Mayor Logan adjourned the Council meeting at 8:25 p.m.

By: \_\_\_\_\_  
SHAWN LOGAN, Mayor

ATTEST:

By: \_\_\_\_\_  
DEBBIE KUDRNA, City Clerk