

CALL TO ORDER:

Mayor Shawn Logan called the workshop to order at 6:30 p.m. and led a silent invocation and the Pledge of Allegiance.

Present: Mayor Shawn Logan; Councilmembers: Angel Garza, Corey Everett, Genna Dorow, Larry McCourtie, John Lallas, and Mark Snyder.

Also Present: City Administrator Wade Farris; Department Heads: Public Works Director Terry Clements, Police Chief Phil Schenck, Finance Officer Spencer Williams, and City Clerk Debbie Kudrna.

Absent Was: Councilmember Eugene Bain.

Mayor Logan announced that the City Council may take action at this workshop meeting.

Council carried a motion to approve the absence of Councilmember Eugene Bain. M/S Dorow/Snyder.

CITIZEN INPUT

There was none.

APPROVAL OF AGENDA

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

PUBLIC HEARING ON THE SAGESTONE 8 DEVELOPMENT AGREEMENT

Mayor Logan opened the public hearing at 6:35 p.m. and explained the process of the public hearing. City Attorney Kelly Konkright stated that the City staff has provided a development and infrastructure fee agreement for the Sagestone 8 subdivision for the Council's consideration. The property is located across from the CBHA development on 14th Avenue. There have been negotiations on the development agreement for approximately 8 months. He presented the last version of the City's development agreement, which has been submitted to Olsen Homes. He stated that Olsen Homes Attorney, Michelle Green forwarded revised materials late today. Mr. Konkright advised that we do not have an agreement with Olsen Homes.

Mr. Konkright reviewed the city's proposal for the development agreement. He reviewed Section 4, which identifies exhibits. He advised that Exhibit C has not been agreed by the City and we are still reviewing those numbers. We also do not have Exhibit B and noted that the City had previously agreed to their request to reduce the width of Columbia Street within their development to residential standards. A recent proposal was that the City agreed to pay for the cost for the portion of the street within the new development to be built to a full arterial street width. This cost was estimated at \$32,500; however, that street profile has not yet been created.

Mr. Konkright stated that the CBHA development has a temporary storm water and sewer connection at Gemstone Street, which is near capacity. There are concerns that the current connection will not meet the demand of the new CBHA development for the occupancy permit requirements. The City became aware of the need for a new storm water and sewer system, installed deep with larger pipe to serve those areas. The desired alignment was within Columbia Street. Because of the City's desire to deepen the infrastructure and have larger pipe, there was a need to develop a cost share with Olsen Homes. To accomplish this, the City offered to pay the extra costs for lowering the lines and for the larger pipes. This would provide the infrastructure needed for the Olsen Homes development and the City would have extra facility to handle CBHA needs. Mr. Konkright explained that the City has a current right-of-way along 14th Avenue that they can install storm water and sewer services, going south from CBHA, if needed. He advised that we have a verbal commitment that we could install along the DOT right-of-way. It's imperative to have

City of Othello
City Council Workshop
June 5, 2017

the storm water and sewer system installed for CBHA in order for them to obtain a certificate of occupancy because we currently don't have the infrastructure that they need.

Mr. Konkright reviewed Section 16.5 - Sanitary and Storm Sewer Installation Schedule. This section provides that the City is committing to approve or provide comments on the sanitary and storm sewer installation plan within two weeks of receiving the plans. The purpose is so the developer can install those utilities along the Colombia Street alignment and we would assure that it would be completed by the time that CBHA obtains their certificate of occupancy. This section also includes a contingency that if the facilities are not completed by the developer on or before July 30, 2017, there are mechanisms for the City to complete the installation to assure that CBHA will have those services. To do so, Olsen Homes would grant the City a utility easement along the Columbia Street alignment; the City would install those facilities and the developer would be obligated to reimburse the City for the base cost for the regular size trenching and regular sized piping needed for the Olsen Homes development. He advised that without a provision as stated in the agreement, we are making commitments to participate in the installation and cost of sewer and storm water within the Columbia Street alignment, even if they are not installed by the end of summer. The City would then be forced to design and bid the alternative alignment down 14th Avenue and along the State right-of-way in order to provide services to CBHA. There is a risk to the City if there is no provision within the agreement that the City can complete the work by the end of the summer. He noted there is the possibility that the City would be participating in the cost for two redundant utility systems.

Mr. Konkright reviewed Section 16.4 – Columbia Street/Arterial Street. This section provides for the request to pay to widen the street. The current plans are only drawn for the wider street and had not been revised to a narrower street. Those plans could be submitted now and may get approved quickly and the developer could begin installing those utilities to get them completed timely. In the Olsen Homes agreement, (in Section 16.5) the developer agrees to complete the installation of the sewer and storm water installation within 45 business days after the City approves the developer's plan; after the developer receives preliminary plat approval; after the developer receives authorizing to start construction, and the issuance by Washington State of the NPDES permit. He noted that the State NPDES permit is outside the City's control and we can't guarantee the issuance within the 45 business days. We also don't know the quality of the plans that Olsen Homes will submit and whether they will need revisions and the City also doesn't have any mechanism that submittal of the Olsen Homes plans will be done in a timely manner. Another concern is whether Olsen Homes runs into situations where they cannot complete the infrastructure installation within the 45 days. If they go past the 45 days, the CBHA development might not have the needed infrastructure. Mr. Konkright stated that the Olsen Homes agreement does not have hard dates that the work has to be completed to trigger the City having to complete the installation. It uses time frames after certain events occur that are outside of the City's control. That defeats the purpose of having a development agreement; to have the Columbia Street utilities complete by the end of the summer. Mr. Konkright recommended that the Council approve the City's last version of the development agreement and then Olsen Homes can decide whether to agree to it or not agree to it. If they do not agree to the City's version, the City will have to design and bid the sanitary sewer and storm water system along the alternative route, which circumvents the Sagestone 8 development. He advised that the continued public hearing for the Hearing Examiner is set for June 12th at 1:00.

Mr. Konkright stated that his concern is that the City not be placed in a situation where public dollars could potentially be spent for two redundant systems, in order to service the CBHA new development.

Councilmember Snyder stated that the City is concerned of getting the sewer and storm water installed in 45 business days. Attorney Konkright reiterated that it's completing the installations

City of Othello
City Council Workshop
June 5, 2017

before the end of summer. And Olsen Homes proposes a 45 business day timeframe and it does not begin until certain events occur that are largely out of our control, including the issuance of the NPDES permit from the State. This gives us a concern that the City may be in the position of having to pay for two redundant systems. Councilmember Snyder stated it doesn't take 45 days to install storm and sewer in the ground and it seems like we're holding them back from doing this. Mr. Konkright advised that Olsen Homes proposed the 45 day timeframe and there is no guarantee that it will be done by the end of summer because the 45 days does not begin until a number of events occur, which many factors are out of the city's control. We cannot control the quality of plans that will be provided, whether there will be revisions necessary. For example, if revisions are needed, there are no dates of when the revisions will be resubmitted to the City and then it may be past the 45 days of completion. It was noted that the CBHA estimated completion date is September 1st. Councilmember Dorow stated that the NPDES is needed for the wastewater permit and DOE is running behind schedule approving those permits.

City Engineer Kurt Holland explained that the NPDES is for the construction of storm water and there are State regulations to meet.

Mr. Del Green from NW Engineering, representing Olsen Homes, advised that they have to apply for a fee agreement, also known as a storm water pollution prevention plan. They will file a notice of intent and it takes 30 days before the State recognize the notice of intent and during that time period, Olsen Homes has to prepare the storm water pollution prevention plan. This will provide time for the State to review the plan, if they choose to do so and allow for public comment.

Attorney Konkright clarified that in section 16.5 we have a deadline that the facilities will be completed by July 30, 2017. And, if it's not completed by July 30th, then the City would have the ability to complete it. The reason for the July 30th deadline is because the City will need time to get design documents prepared and go out for bid to get the job done.

Mayor Logan asked for public comments in support of the proposed agreement that the City has proposed. Michelle Green, Attorney for Pete Olsen advised that there's been good effort from both sides to reach an agreement; however, there are significant terms that need to be resolved.

Ms. Green addressed Section 16.5 Sanitary and Storm Sewer Installation Schedule. Their issues are that they can only control certain events. They can commit to submit their plans and agree to do so by June 9th. They can commit to do those things after they get plan approval and after they get the permits required under Washington law. She believes that the City can trigger the start of the 45 days. The 45 business days is the timeline from their contractor that they can commit to having the work done. She advised that the trigger of that is after the city approves the development plans and after the developer receives preliminary plat approval and receives authorization to start construction from the City. And lastly, is the issuance of the NPDES permit from the State. This is required to be obtained to do this work. She noted that the City would also need this permit prior to do the work along the alternative route. She advised that Mr. Olsen is motivated to complete the project and there is no intention to delay the timeline. They just can't commit to a timeline that our contractor says they cannot meet when there are items outside of their control. They can't agree to the July 30th date because the contractor says they cannot meet that date and because there are all of these things need to get into place to start the work.

Ms. Green advised that there are minor changes in Section 16.4, including removing the planter strip requirement because there is not enough room for the planter strips if they are doing the wider road. The reason they asked the City to pay the additional \$32,500 for the wider road was to enable them to help the City meet their timeline. It would expedite the process and they have plans to submit this week with the wider road design. If the City didn't want to go that route, Olsen

City of Othello
City Council Workshop
June 5, 2017

Homes would have to finalize plans with a narrower road. The other changes within the paragraph are confirming that the road will be built to requirements of arterial streets under the city code.

Councilmember Lallas asked who asked for a narrower street. Ms. Green advised that Pete Olsen asked for it. Councilmember Lallas stated that the City agreed to it; however, Mr. Olsen failed to get plans completed for submittal. Mr. Del Green advised that he was holding back until we had an agreement in place. Ms. Green noted that everyone agreed upon that the City would pay the \$32,500 for the wider width and moving forward with the quicker timeline to submit plans this week. City Administrator Wade Farris noted that would be upon Council approval.

Olsen Homes Attorney Ms. Green reviewed Section 15, Irrigation. They are asking a provision that the developer will allow the City to install the public irrigation system, provided that it will not result in an unreasonable delay or interfere with the developer's construction schedule. They wouldn't want the City saying that the irrigation will be installed in one year and ask the contractor to not complete the sidewalks or road improvements. Ms. Green reiterated that they are more concerned with Section 16.5 and the timing and they can't agree to a timeline that they don't have control over. The timeline has to be based upon when they get approval to do the work and when they get the permits under State law. That seems like a deal breaker provision. She reiterated that Mr. Olsen is very motivated to get the work done. They will submit plans this week and hope the City will help them get the NPDES permit.

Ms. Green stated that even if the City wanted to proceed with the alternative route along the highway, the City would need to obtain the NPDES permit. She stated that they believe that the City does not have the required easements or approval for the alternative route proposed by the City, because it's not a designated right-of-way. She advised that the State does not have the ability to grant the easement over that route.

Ms. Green stated that the timing issues are difficult for everyone in the agreement and the Olsen Homes agreement should be approved by the Council. They expect the four triggers to happen; however, they are things they don't have control over. They believe the City will authorize them to start the construction. They believe the plat will be approved on Monday. They believe the City will approve their plans and believe they will get the same permit that the City will be required to get within an expedited time frame. She stated she appreciates the efforts of city staff and Mr. Konkright and they are very close to an agreement. The last few revisions are reasonable and appropriate for the developer. They are asking to make sure they have the permits required under Washington State law to do the work and that the dates run from the date they get that approval. There is still the provision that if they don't meet those commitments there is a process for the City to get the easement and do the work themselves.

Mr. Del Green noted that the schedule wasn't proposed until 3 weeks ago and they have been working on it since then. To get the project completed timely, it will take the teamwork of the City and Olsen Homes to get it done with these new constraints. They were operating on their plans three weeks ago and had they known of the tighter timeline they would have been working on the plans earlier with authorization from Pete Olsen for the expenditure of that money to do the work. They still need to complete the final review of all of the infrastructure work from 7th Avenue to 14th Avenue so their single contractor can construct them. They will have those plans reviewed by Varela and Associates to meet all of the final construction plans and all of the State requirements. Along with the plan review, they can put in the Notice of Intent with the State and start that timeline. He noted that could take a month. The City will then need to review the plans and provide recommendations to get the reviews completed as fast as possible. They believe this could be accomplished within three weeks because he believes the plans are very adequate. Mr. Del Green advised that Olsen Homes does not need to meet bid requirements and they have received estimates from their contractor in Exhibit C. Changes to Exhibit C include a provision of the City

to put the irrigation on both sides of the road, rather than one side. He reported there has been an increase in PVC prices of 13% in the last 3 months, which resulted in a small increase for the trenching costs. He stated that they are the fastest team to get this done for almost 2600 feet of pipe (two runs of it), which is about a mile of pipe in the ground. Because of the depth, they don't know if they will encounter unsuitable soils or other frustrations during the construction process. He stated that Pegram Construction has a long standing relationship with the City and knows the soil conditions very well.

Mr. Del Green advised they have proposed revisions in the fee agreement that are substantial. They had an original meeting with the Mayor and discussed the 2.5% fee. There was a verbal agreement that the City would take care of the inspections and Olsen Homes would take care of the testing and the record drawing. They haven't seen any change on the staff's side relative to key components within the submittal section of the fee agreement. The City requests that Olsen Homes submit the submittals to the City and shall be informational for the purpose of the project and checked only for general performance of the City and/or industry standards. Public Works' possession of materials submittals is not admitted to be certification that the developer actually installed the materials identified or did not deviate from the submittals. The developer is responsible for ensuring that the materials identified in the submittals were in fact used in the plan. By providing the submittals and making sure they meet the intended plan set is a key part of the inspection. Otherwise, the developer would have to pay for a representative to be onsite to make sure all of those things happen. The proposal from Olsen Homes is a sharing of that labor and Mr. Olsen would pay the 2.5% of the construction cost, which is estimated over \$2 million. There is a significant amount of time in five months during which this construction and that the City is most interested in the first 30 calendar days.

Mr. Del Green advised that they sent in revisions for Section 4.04 over a week ago requesting changes in the terminology to show the City actually doing the inspections. When they get to the completion of the project and the design engineer makes the final inspection to determine the project is substantially in conformance with the construction documents. Once all things are taken care of, then the City goes out and inspects. They feel this is the opposite of the original agreement intent, where the City would provide inspection of the project all the way through including spot inspections. He noted that this is how Moses Lake does this. They rewrote this section to indicate that the City inspectors are doing inspections then they bring the contractor in to do the final inspections and punch list.

Mr. Del Green advised that when they were reviewing the response from the City today a lot of these points were back to the previous language. They had asked to eliminate the plat process from the inspection fee agreement because that is handled under the platting process. And, they are not requesting any deviation other than those identified in the development agreement. They are motivated to get the construction underway. They have been trying to work through and find a plan that works in Mr. Olsen's budget and gets the City what they need. Mr. Del Green advised they had prepared the budget and it was approaching a threshold that Mr. Olsen couldn't afford to go forward, noting arterial width roads are very expensive. They requested some aid with the street costs and the cost reduction to Mr. Olsen wasn't as significant as anticipated. The benefit was in the reduction of the gravel and asphalt; however it forces them into a bigger catch basin size. When all of those calculations were adjusted, it was a \$30,500 difference. Because of the new timeline issue, Mr. Olsen then asked for the City to pay for the larger width of streets. They are looking for an agreement to meet Mr. Olsen's needs and meet the needs for CBHA to connect to the Columbia infrastructure.

Mayor Logan asked if September 1st is the date for CBHA. Mr. Curt Andrews from CBHA stated that the date for them to obtain a certificate of occupancy is September 1st and then they will

City of Othello
City Council Workshop
June 5, 2017

complete their project. City Administrator Wade Farris advised there is an alternate that they can hook up to in order to work temporarily until they are in running full capacity in the fall. However, they are concerns that it won't handle the flow.

Mayor Logan asked Mr. Del Green about why they would deny the City the warranties. Mr. Del Green stated that most of the warranties for equipment will respectively go away within the two year warranty period, provided by the maintenance bond. Only those pieces of equipment that would last longer would still be under warranty. The warranty for subcontractors are nearly impossible to get and the materials from suppliers are the ones that for two years. Mayor Logan advised that there are ten year limited warranties on the resilient gate valve and if we agree to that, we are waiving the ten year warranty for those valves. Mr. Del Green advised they would not have a problem with providing material submittals or warranties for the components that have those extended life warranties. Mayor Logan asked that warranties for the equipment beyond the two year period be extended to the City. Mr. Del Green agreed that the City wants that information and it's nearly impossible to deliver them.

City Attorney Konkright explained that the language is "where such warranties are required we will get the warranties". He questions which warranties in the development and the fee agreement that Olsen Homes objects to. Ms. Green advised they interpret this that it requires them to get warranties that otherwise they wouldn't be able to obtain. They don't have an issue extending warranties, if they are available; however, they don't want to request warranties from subcontractors.

City Engineer Kurt Holland advised that in November, the City wasn't concerned of the schedule; however, in June, they became concerned of getting this project done and being able to serve CBHA. They began to look at alternatives and Mr. Holland contacted WSDOT and they indicated that the City has access to the right-of-way, and noted that the City has existing storm water in the right-of-way from 7th Street down. Mr. Holland advised that initially the contractor did not want to submit submittals. Staff then met with the council committee and they recommended the City receive the submittals. As an alternative, the City agreed to receiving submittals at the end of the project. Regarding the inspection close-out, the notification of substantially complete always comes from the contractor, not the engineer. The design engineer will inspect the facilities and a punch list will be developed. Mr. Holland advised that typically with municipal projects, the warranties are important to the owner and given to the City to easily access them when needed.

Councilmember Lallas asked Ms. Green to explain the last portion of the paragraph in Section 16.5 and what they are trying to accomplish. Ms. Green explained that if there is a 3rd party appeal of the preliminary plat on Monday, after approval of the Hearing Examiner, and if there are expenses incurred by Mr. Olsen during the pendency of that appeal, they are requesting that those costs be reimbursed. Councilmember Lallas advised that this is a cost share agreement and Mr. Olsen needs to cost share something. Ms. Green explained that they are requiring reimbursement for all costs incurred by the developer that would have been the responsibility of the City. She stated that the City will be provided with any manufacturer's warranties that exist. The language they want to eliminate was additional warranties from the contractor or having to get additional warranties that don't otherwise exist from suppliers and subcontractors. That shouldn't go beyond the bond that they will provide. Councilmember Lallas stated that the manufacturer will guarantee the valve so the City can take ownership after two years. Ms. Green advised the City will get those.

City Attorney Konkright explained that if a 3rd party appeals the preliminary plat and the appeal wouldn't be done from the June 12th date, a question was about costs that has already been incurred. He explained that both sides would be accepting their own risks and nobody is covering each other. However, he hasn't had time to review Olsen's latest proposal. He did advise that it

City of Othello
City Council Workshop
June 5, 2017

states that in the event an appeal of the preliminary plat or if the improvements are not completed by the developer by the agreed upon deadline above and the developer does not meet the deadline, then this triggers those reimbursements. Mr. Konkright advised that the date is the 45 business days after the later of the four approval events.

Ms. Green advised that if the developer does not meet the deadline, Olsen should be reimbursed because the City can pick the project up. She noted that they are committing to the 45 day deadline; however there could be unknown factors that could result in their contractor not being able to meet it. They feel that is a fair provision. Mr. Konkright stated that the way it is written, that would also be the case if Olsen Homes is only 20% complete on the project.

City Attorney Mr. Konkright explained that the way Olsen's proposal is worded, due to the tight timeframe, the City could be in a situation that the City would be obligated to complete the infrastructure for the Sagestone 8 Development along the Columbia Street alignment and also have to fund the 14th Avenue, State right-of-way alignment. This would be two redundant systems. Some of the events are not within the City's control. If the City receives plans that are poor, we can't approve them and the City can't control when revised plans will be submitted to the City for consideration. There is nothing in the revised Olsen Homes agreement that would prevent that.

Ms. Green reiterated that those trigger points are also outside of their control. She doesn't know if there is better way to have those risks mitigated. She feels this is a fair proposal and there are risks for both sides and they didn't want to commit to a timeline on the sewer; however, they are committing to that 45 day deadline. At that point, the City could step in and get the easement and complete the project. Both parties are in a bind and Olsen Homes wants to get it done and she asked that the Council approve the agreement, as revised by Olsen Homes.

Mayor Logan asked if the plans have been developed based upon the Public Works Standards? Mr. Del Green advised they have been, as far as he could understand. They have not been submitted for review. In the review process, they will work through some issues between the reviewer and the designer. He believes they are motivated to get it done timely and the City is under a timeframe to get it done. The plans are for the Sagestone 8 plat and the Columbia improvements from 7th to 14th Avenue.

Mayor Logan stated that the Hearing Examiner will meet on Monday, June 12th and asked if the development agreement has to be adopted before the Hearing Examiner hearing, or can the issue be resolved by the Hearing Examiner. Attorney Konkright stated that the Hearing Examiner cannot force the City to agree to something. However, we haven't agreed to all terms. Normally, we don't have a Hearing Examiner review the development agreement and make determinations on the agreement. The Hearing Examiner will only resolve the application process.

Mr. Del Green advised that the remaining elements are the budget and the other concerns discussed tonight. In terms of going to the Hearing Examiner without an agreement, their alternative is to try to reschedule the Hearing Examiner or to withdraw the plat.

Mayor Logan stated that the Council has heard the City Attorneys concerns and opinions and has heard from the developer's attorney and engineer. They have been presented two separate development agreements. Attorney Konkright suggested that we could try to work out the outstanding issues and the Council could schedule a special council meeting to hear the final arrangements. Mayor Logan stated there are incentives to come to an agreement.

Mayor Logan asked for Council comments.

Councilmember Lallas stated that over a year ago he suggested to other members of the Council that if we are asking developers to do things for the future of the community, that we cost share and enter into agreements for developments. However, we couldn't come to an agreement of what

City of Othello
City Council Workshop
June 5, 2017

the inspection fees would be and we're now working on a time frame issue. He hopes that if we do this in future, that we get these issues worked out a lot faster. We should have an engineer develop an engineer design. They take that to bid and they bid on the engineer design. There are engineer's standards to follow. The way it's installed is held to a standard and when they are completed with the project, you review it all and come to an agreement. He's concerned that they don't want to submit submittals of the types of equipment they are buying. Mr. Del Green stated that they haven't contested making any submittals. Their issue is that the City is taking no responsibility for the submittals that they provide. They will provide the submittals to the City and as part of their inspection, they will review the submittals and make sure they meet the standards set forth by the City. Their plans include the City's requirements and nothing would be substandard at all. They use the submittals to make sure the equipment being placed into the ground is the same equipment that was reviewed and approved.

City Attorney Konkright advised that the provision that they've crossed out in the fee agreement reiterates that the developer is responsible for the materials put into the ground and he's responsible for satisfactory performance of the work. He recommends that this section not be crossed out. The materials being put underground is still subject to inspection.

Mr. Del Green said that they are saying that the responsibility of the 2.5% fee should be used to provide inspections. It would be the City to use the submittals and be responsible for the materials that are installed are inspected. He stated that the 2.5% will be utilized to review the submittals to make sure they meet the city standards and verify what goes into the ground. It's the City's responsibility that the materials identified agree with the submittals and the inspection. Councilmember Lallas stated that would be o.k. on the two sections of the properties that the City will take care of, but not for the Olsen Homes Sagestone part. Mr. Del Green stated that the City is cost sharing across the Sagestone development. He explained they will submit their plans, the plans are bid out and the contractor works with the suppliers and the suppliers provides the submittals. Those submittals get looked at and approved to meet standards, as part of the 2.5% inspection fee. The City inspector should verify the materials and will expend their time for the 2.5% fee to assure the contractor has installed the correct materials.

City Attorney Konkright explained that 4.02 Submittals is about submittals and not about inspections. The material submittals are informational only for the project and checked for general conformance with City and/or industry standards. It is not intended to be certification that the developer actually installed the materials identified or did not deviate from the submittals. That is what the inspection does. He believes the language could be changed to make it clearer.

City Engineer Holland explained that the council committee will recall that the initial presentation of the agreement did not include submittals because we were told they would not pay for submittal reviews. Submittals verify what is being installed and they include information of on-site storage, installation instructions, etc. If there was constant onsite inspection in the field, the inspector would verify those frequently. Initially, to cut inspection cost, we would not be inspecting on a continuous basis and we weren't approving submittals. What is in their proposal is no approval of submittals. It does not say we are reviewing and approving these whatsoever. The City was told that the contractor will provide us what we want, they will install it per the contract and at the end of the job, they will provide all of the submittals and we will take those for face value. That is why that paragraph was added. Inspection of constant nature is not a guarantee that they install it right. It is the contractor's responsibility to install all of the products per the manufacturer's recommendations and per specification.

Mayor Logan asked for a recess at 8:23 p.m. Mayor Logan reconvened the public hearing at 8:33 p.m.

City of Othello
City Council Workshop
June 5, 2017

Councilmember Lallas asked that the parties work this out and have a City Council special session soon. Mr. Del Green advised that they intended to submit all submittals; it's a matter of the responsibilities that go along with the submittals and the review and utilization of those submittals relative to the inspection. Councilmember Lallas asked if Olsen Homes thinks it will cost more money to give submittals to the City for inspections? Mr. Del Green stated the submittals will be prepared and given to the City, this was never in question.

Councilmember Lallas stated that in a committee meeting it was noted that when you submit a submittal, you are going to buy that material and install that material into the ground.

Councilmember Snyder said they are saying that submittals should be reviewed and approved. Mr. Del Green expects the contractor to meet all of the submittals and construct it as the approved plans are set forth. If the City is providing the inspection service, they are providing verification instead of the developer paying another consultant to do this. Attorney Konkright stated that the clause states that the submittals will be reviewed to make sure they meet City and industrial standards.

Olsen's Attorney, Ms. Green advised that their issue is in the last sentence relevant to the developer being responsible for ensuring these things. And that's a point of the inspection agreement; the City is getting a 2.5% fee for assuming the responsibility for doing those inspections and verifying the materials in the ground meet the submittals. Councilmember Lallas stated that the City will let the contractor make sure that they did the job right and not be looking over their shoulder to make sure they accomplish what they said they would accomplish. Mr. Del Green asked what the developer is getting for the \$50,000 that Olsen Homes is paying for inspections. It is best to have a set of plans constructed correctly and to have somebody spot inspecting. If this is not happening, the contractor is happy but it doesn't mean that things are going in the ground right. And it doesn't mean that there's a waste of having somebody there 100% of the time. City staff could be there throughout the day to provide the oversite to the contractor to stay focused.

Mr. Farris asked what if an inspector was out at the site early and all was fine; however, when they returned, they found something was installed wrong. Who would be responsible? Mr. Green stated that it would be the contractor's responsibility to correct it. Councilmember Everett stated that it's the developer's best interest to be watching what their contractor is doing. Mr. Del Green stated they believe they have hired a good, honest contractor and they believe they have hired a contractor with that integrity. To make sure that the City is happy, they want to know immediately if a piece of equipment fails to meet their standard and should know this at the submittal time or if the contractor decides to pull a fast one.

Councilmember Dorow stated that it sounds like the two attorneys need to work out these details and bring back an agreed-upon agreement. When she reads the Olsen Homes version, they are asking the City to approve a plan that removes all protection for the City. She doesn't believe that is their intent. And, it does not belong to be in front of the Council at this time.

Mayor Logan asked what changes the Council wants to see worked out before bringing it back to them for consideration:

- There are two different interpretation of the redlined paragraphs in Section 16.5 and it needs to be reworded to be acceptable by both parties.
- The submittal and verification on the job needs to be agreed upon by both parties.

Olsen Homes Attorney Ms. Green advised that if the City is getting money to take responsibility for the inspections then the last sentence is contrary to that. She believes it is a drafting issue and she believes that the attorneys can agree upon language on several of the issues. They are concerned of the timing issue and do not know where the City is at for the deadline for installation

City of Othello
City Council Workshop
June 5, 2017

of the sewer and storm water installation. They feel they cannot commit to something they can't control over. The timeline was from their contractor after they get the approvals and permits.

City Attorney Konkright advised he has not had opportunity to review their revisions to the inspection fee agreement. However, he does agree that that the major concern is in Section 16.5. He says that if they agree to it, as revised, the City could be subject to competing obligations and it will cost more money. The way Olsen Homes has drafted their revisions is dangerous for the City to agree.

Councilmember McCourtie asked if the last three months been the City's or Olsen Homes fault. Attorney Konkright advised that he was tasked to work on it when Mr. Goddard left employment and both attorneys have been diligently responding to this. The City's need to make sure that if they agree to this, there is a guarantee that those utilities are not going to be put in. Staff has recommended a deadline and if they don't meet that deadline, the City will step in and the developer will have to pay the base cost.

Councilmember McCourtie asked if the developer does not meet the deadline and the City has to complete the project, and we have to hire a contractor, is that another 30 days to get the permit to finish? Attorney Konkright advised that the City will have to do some work ahead of time to get ready for that.

Mayor Logan stated that the developer's argument with regard to the deadline is that they don't know if they can meet it. And, the City's argument is that we have to meet it. The City does not know what kind of plans they will get and whether they can be approved timely. He suggested that the City put the deadline on approval of the plans. Once all of the approvals are completed, the contractor will begin and if they are over the deadline and if they are connected at a later date, it all may still be O.K.

Mayor Logan asked for comments for, neutral or opposed to the proposals. There were no comments. There were no other staff comments. Mayor closed the public testimony.

Council carried a motion to hold the record open and continued the public hearing to a Special City Council meeting on Monday, June 12, 2017 at 11:00 a.m. M/S Snyder/Dorow.

RESOLUTION AUTHORIZING THE SAGESTONE 8 DEVELOPMENT AGREEMENT
Mayor Logan advised that the Resolution will not be discussed.

PUBLIC HEARING ON THE 6 YEAR STIP PLAN

Mayor Logan opened the public hearing at 9:04 p.m. City Engineer Kurt Holland read RCW 35.77.010 relevant to six year plans for legislative bodies for coordinated transportation programs. He reviewed a PowerPoint on the proposed City's State Transportation Improvement Program (STIP). Mr. Holland advised there seems to be a conflict whether the proposal will be a four-year or six-year STIP from the information on the State's on-line program. He stated the proposed projects on the street plan include:

- 1st Avenue Reconstruction Project
- Lee Road Reconstruction Project
- Road Rating Program
- S Broadway Reconstruction
- N Broadway Reconstruction
- SR 24 Industrial Area Improvements and Scooteney St. – W across RR tracks
- 7th Avenue ADA Ramp and Sidewalk Improvements
- 14th Avenue SR 26 Intersection Improvements
- Main Street SR 17 Intersection Improvements
- 7th Avenue completion to Columbia Street intersection

The new projects are the intersection improvements and the road rating program.

Mayor Logan asked for comments in support of the proposed agreement. There was none.

Mayor Logan asked for comments neutral to the proposed agreement. There was none.

Mayor Logan asked for comments in opposition to the proposed agreement. There was none.

Mayor Logan closed the public testimony. There were no other comments. Mayor Logan closed the public hearing at 9:11 p.m. A resolution will be presented to the Council at the June 12th council meeting.

14TH AVENUE IMPROVEMENT PROJECT CHANGE ORDER 17 AND 18

City Engineer Kurt Holland presented Change Order 17 for the street lighting infrastructure within the 14th Avenue Improvement project. The Public Works committee has requested the contractor to install the electrical service pedestals, conduit and pull boxes at each street light location. It also includes supplying and installing 2 flashing beacon stop signs on 14th Avenue. The change order cost is \$294,567.00. Mr. Holland explained that Change Order 18 is for more than 50 street trees within the 14th Avenue Improvement project and the cost is \$80,925.00.

Council carried a motion to approve the Change Order 17 and 18. M/S Dorow/Everett.

UPDATE OF GENERATOR AND VFD FOR WELL #6

Public Works Director Terry Clements gave an update regarding installing a VFD for Well #6. There is money for the VFD in the budget. The specifications are being drawn up for the VFD. If we could save some money on the VFD we could use those funds for a generator for Well #6. Those specifications are being drawn up. These are two separate projects and not combined.

Finance Officer Williams advised that the street committee met and they reviewed options for financing Change Orders 17 and 18. He reviewed the options discussed by the council committee. The street committee decided that for Change Order 17 we could use a 3-year loan from the sewer fund, which will be paid back when we receive contributions from property owners along 14th Avenue. Change Order 18 could be paid with about \$40,000 from the water fund and about \$40,000 from the street fund. We may be able to pay the cost for the road rating program out of the street fund. Councilmember Everett noted we have approximately \$398,000 coming in from a grant and suggested we take an interfund loan for both change orders and pay it back with the grant funding. It was Council's consensus to pay for Change Order 17 by an interfund loan. Mr. Williams advised that he is developing the interfund loan provisions

UNFINISHED BUSINESS

There was none.

NEW BUSINESS

Councilmember Lallas advised he will be gone next Monday.

Mayor Logan made the following announcements:

- Lions Club auction is Tuesday, June 13th at the Senior Center.
- The Seahawks Bus will stop in Lions Park on June 18th at approximately 11:30 for one hour.
- The Hospital Auxiliary golf tournament is June 24th. More information about this can be obtained from Councilmember McCourtie.

City of Othello
City Council Workshop
June 5, 2017

- The swimming pool opens June 9th.
- The Lasting Legacy Wildlife Museum will host a special VIP event on Saturday, June 17th in Ritzville, hosted by ACDC.

ADJOURNMENT

With no further items to discuss, Mayor Logan adjourned the workshop at 9:30 p.m.

By: _____

SHAWN LOGAN, Mayor

ATTEST:

By: _____

DEBBIE L. KUDRNA, City Clerk