

City of Othello
Regular Council Meeting
August 27, 2012

CALL TO ORDER:

Mayor Tim Wilson called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Present: Mayor Tim Wilson; Councilmembers: Eugene Bain, Ken Caylor, Genna Dorow, Charles Garcia, Kenneth Johnson, and Mark Snyder.

Also Present: City Administrator Ehman Sheldon; Department Heads: Finance Officer Mike Bailey, Public Works Director Terry Clements, Police Chief Steven Dunnagan, City Clerk Debbie Kudrna, Public Works Maintenance Lead Terry Clements; and City Attorney Katherine Kenison.

Absent Was: Councilmember Dan Dever.

Mayor Wilson announced a short recess to get the microphones working. At 7:05 p.m. the meeting was called back to order.

Council carried a motion to excuse Councilmember Dever. M/S Johnson/Caylor.

CITIZEN INPUT

Sean Bates, 1156 E. Juniper St., stated his concerns of Council taking action at workshops and asked that the public be able to speak at the workshop meetings. He noted that Council is considering an ordinance tonight relevant to the one half cent optional tax and he is opposed to any changes to the ordinance approved in 1985 and asked Council to not adopt the proposed ordinance. Mr. Bates provided a handout to the Council and Mayor that has information about a 10-year actual funding for street fund 101 and local sales/use tax distributions. He asked that his written letter be included in full text in the Council minutes.

Jerry Limon, 907 E. Larch St., asked what authority the Council has to change the ordinance on a voter established tax. He stated that he is opposed to changing the half cent sales tax under the general fund and changing the dedicated funding for streets and establishing a TBD doesn't make sense to him. It makes sense to him to increase the 0.2% sales and use tax increase.

Michael R. Crosier, 625 N. 11th Ave., asked questions about the TBD and street fund: what value is gained for the citizens and he reviewed a slide show relevant to the half cent sales tax. He noted that diversion of the funds is prohibited by RCW 47.80.110. He asked why the dedicated street funds were diverted. He noted that this is an optional tax and can be taken away by the people.

Robert Russell, 850 E. Larch St., noted that the original sales tax increase was mainly for residential street improvements. He stated that if the Council has the legal means to change the will of the people, it still isn't right.

APPROVAL OF AGENDA

Council carried a motion to approve the agenda. M/S Garcia/Caylor.

CONSENT AGENDA:

- A. Approval of City Council Minutes of August 13, 2012
- B. Approval of Accounts Payable Checks
- C. Resolution to Release Retainage – P.W.'s Shop Improvement Project

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. 41524 to No. 41572 in the amount of \$153,881.22.

Council carried a motion to approve the Consent Agenda as presented. M/S Snyder/Garcia. Councilmember Johnson abstained from the portion relating to a payment to Johnson Glass.

KEVIN LINDSEY – DISCUSSION OF WELL SITE #9

Kevin Lindsey, Hydrogeologist from GSI Water Solutions, Inc. explained the process for the hydrogeological assessment of the groundwater supply conditions at the proposed site for Well #9. The prognosis process will include a review of the surrounding wells to define where water production may be in the subsurface. They have found a few wells, a monocline and dikes close to the proposed well site. He noted that the top of Grande Ronde aquifer may be at 1,000 feet down from ground level at that location. There is a monocline fold somewhere between the City wells and the Port District well and he explained the effects to the water sources due to the locations of a monocline fold and dikes. The first good water production at this location may be approximately 400' – 500' below ground level with multiple targets between 800'- 1000' down. Mr. Lindsey recommended that the City drill an 8" pilot well to see what the water production is and then design the final well configuration based on the pilot drill and testing. If a pilot well is not drilled, he recommends drilling 400'-500' minimum depth with casing and seal of an oversized hole. He also recommends including controls in the drilling contract to accommodate uncertainties and having check points during the drilling process. He stated that there is water at the location; the questions are how deep, how much and what the water quality is.

ORDINANCE AMENDING OMC 11.02.02 – SALES TAX REVENUE

Mayor Wilson asked the Council what they wanted to do. Councilmember Snyder recommended that they leave the ordinance as it is and all of the dedicated funds should go into the street fund. Councilmember Johnson advised that he reviewed the Council minutes in 1985 and found Ordinance 718 passed by the City Council was for the half-cent sales increase and listed specific streets to address. There was a citizen petition received by the City Clerk on May 28, 1985 and that City Attorney Caw then advised the Council that it is illegal for Council to earmark that money for specific purposes past that year. He also explained that the minutes of June 10, 1985, City Attorney Caw stated her opinion, after consulting with AWC, the Council could not bind future Councils by passing an ordinance because any ordinance can be repealed. Councilmember Johnson stated that he also read in the minutes that to get the petition pulled off, Council adopted Ordinance 722, which states that the half cent sales tax would be used for streets and there would be a street improvement plan.

Councilmember Caylor stated we're using more money than what the tax generates and we're putting more money into the street fund. When the 1% comes from the State, we put that into the general fund and break out the half percent into the street fund; it doesn't specifically say when you have to pull that money out of the general fund. He stated that we've actually put more in each year than the \$660,000 into the street fund.

Councilmember Garcia stated that it's earmarked on paper and the elected officials have to represent the citizens.

In regards to the past City Attorney Caw's statement regarding that the Council could not earmark the money after that particular year, City Attorney Kenison stated that she's not aware of what the premise of that opinion was. She said that in terms of the Council policy decision made in 1985, the comment that the Council in 1985 could not legally bind future Council's to their policy decision is accurate. The policy that established the internal, self-imposed mandate to use those sales tax revenues for streets was a choice made by the Council at that time. Future Council's have the ability to legally change policies to fit current needs and imposing a restriction on funding is unusual. Attorney Kenison also advised that the City receives a lot of funding with strings attached and sales tax revenue has no restrictions. If the current Council decides to remove the previously Council adopted policy, they can do so. She stated that their job is to make the best decision considering the business needs of the City in 2012.

Councilmember Johnson stated that their job is to look at the available funding and do the best to keep our streets up. We've been short on the street fund and they have used other funding to

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supplement it. Councilmember Garcia suggested that they look into the verbiage and see what we come up with.

Council's consensus was to discuss this further at the workshop.

ORDINANCE ESTABLISHING A TRANSPORTATION BENEFIT DISTRICT

City Administrator Ehman Sheldon reviewed the proposed ordinance and advised that it creates the Transportation Benefit District (TBD) and gives them the authority to look at revenue sources for streets. He also noted that the Council has held two public hearings on the TBD. He stated if the Council wants to create the TBD, they should adopt the ordinance.

Council carried a motion to adopt AN ORDINANCE OF THE CITY OF OTHELLO, WASHINGTON, AMENDING THE OTHELLO MUNICIPAL CODE TO ENACT A NEW CHAPTER 3.30, TITLED "CITY OF OTHELLO TRANSPORTATION BENEFIT DISTRICT", ESTABLISHING A TRANSPORTATION BENEFIT DISTRICT, SPECIFYING THE BOUNDARIES FOR THE TRANSPORTATION BENEFIT DISTRICT, SPECIFYING THE MAINTENANCE AND PRESERVATION OF EXISTING TRANSPORTATION IMPROVEMENTS, AND OTHER STREET IMPROVEMENTS WHEN DESIGNATED ON STATE AND REGIONAL PLANS. M/S Garcia/Dorow. This shall be known as Ordinance No. 1366. Councilmember Bain cast an opposing vote.

NEW BUSINESS

Mayor Wilson made the following announcements:

- He asked the Finance Committee to meet at noon on Wednesday with staff to discuss the new Finance Officer.
- They tried to get lifeguards to open the pool this weekend; however, they were not successful.
- Fair tickets are available for \$16 for all 4 days instead of \$20.00, if we get 8 city people to commit.

Council carried a motion to cancel the September 4, 2012 workshop. M/S Garcia/Dorow.

Councilmember Garcia asked to set up a park and recreation meeting.

ADJOURNMENT

With no further items to discuss, Mayor Wilson adjourned the Council meeting at 8:23 p.m.

By: _____
TIM WILSON, Mayor

ATTEST:

By: _____
DEBBIE L. KUDRNA, City Clerk

Council received the following:

- Letter addressed to the Mayor and Council, dated August 27, 2012 from Sean Bates.
- Document from Sean Bates titled "10-year actual funding for street fund 101".
- Flow chart from Michael Crosier titled "Approved path of tax \$\$\$\$\$ by citizens since 1985 – 37 years".