

**CALL TO ORDER:**

Mayor Jeannie L. Sanders called the workshop to order at 7:00 p.m.

**Present:** Mayor Jeannie Sanders, Councilmembers Larry Bray, Everett Cole, Kenneth Johnson, Shannon McKay, and Marc Spohr.

**Also Present:** Department Heads: Curt Andrews, Police Chief Ron Axtman, Debbie Kudrna, Dick Lee, Rhonda Miller; and City Administrator, Ehman Sheldon. Planning Commission members Alan Hanks, Lolo Garza, Steve Muzik, Kim Oord, and Robert Surgeon.

**Absent were:** Councilmembers Eleanor Brodahl and Tim Wilson.

Planning Commission Chair Kim Oord opened their continued meeting from August 16, 2004.

Mayor Sanders announced the following:

- The Caboose Committee has a meeting scheduled for 8:00 a.m. on September 20<sup>th</sup> in Conference Room #3
- The Jail Committee has a meeting scheduled for 8:00 a.m. on September 30<sup>th</sup> in the Police Department Conference Room
- Civil Service interviews were held earlier today

**DONATION FROM TOM & WILMA TINDELL**

Mr. & Mrs. Tommie Tindell presented a patriotic framed print to the Othello Police Department. Mr. Tindell stated that they have always had an excellent working relationship with the Othello Police Department and complimented the Department for outstanding service to the community.

**TOURISM RADIO STATION MANAGEMENT**

City Clerk Debbie Kudrna presented a draft agreement regarding the operation of the tourism radio station. She explained that the City had purchased the radio station equipment and license in 1993 using Hotel/Motel tourism funds and the equipment is now located on the tower behind the Police Department. Roger Krug, Adams County Economic Development Analyst has been operating and maintaining Ritzville's tourism station for the last fifteen months and has offered the same kind of service to Othello. The Clerk explained that 1610 AM radio station is used for tourism promotion and emergency service announcements.

**POOL EVALUATION REPORT**

Alan Schroeder from Anderson Perry & Associates and Karen Johnston from KJ Design presented the City's pool draft inspection and review report. KJ Design was sub-contracted by Anderson Perry & Assoc. to perform the pool evaluation and prepare the report. Mr. Schroeder explained that information was collected about the pool and its operation, pump room, locker rooms, and accessibility issues. He noted that the typical life cycle of a community pool is 40-50 years, and Othello's pool is approaching 50 years old. Mr. Schroeder explained that some of the notable concerns include the amount of moisture in the walkways underneath the pool, concrete deterioration, electrical deficiencies, mechanical, and safety concerns. Karen Johnston further advised that the circulation system needs to be redesigned to meet State codes, which seems to be infeasible and impractical. She explained that the surge tank and filtering system are not working properly; the facility does not meet the current requirements of the American Disability Act (including a family changing room); and there are many life/safety issues to bring it up to current codes. Based upon the pool assessment, they found at least thirty critical failures, and for the health and safety issues that need to be addressed the estimated cost is \$388,000. This amount does not address issues that are equally as important, but seem to be impractical repairs for such an old facility, which they estimated at an additional \$925,000; for a total amount of \$1.3 million. Mrs. Johnston stated that it would be hard to justify investing \$1.3 million to a facility that won't last another 40 years. She reviewed the swimming pool assessment reports that they completed. Mrs. Johnston concluded that a newer facility will meet the greater needs of the community; would be a safer environment for our citizens; and could generate additional revenues for the City. There was further discussion regarding options for a new pool facility, how to meet the needs of the community, and how to meet ADA issues.

At 8:00 p.m., Mayor Sanders requested a ten-minute break. The meeting reconvened at 8:10 p.m.

#### **CHAPTER 19 LAND USE PROCEDURE – JIM WHITAKER**

City Attorney Jim Whitaker presented an overview of regulatory reform and the new O.M.C. Title 19 entitled “Development Code”. He explained that regulatory reform was pushed through the legislature very quickly and was promoted by the development community in an attempt to streamline land use applications. Mr. Whitaker stated that every City and County are required to implement regulatory reform, independent of Growth Management and it applies to all land use permissions and approvals, including certain building permits. Failure to follow regulatory reform rules is an automatic win for any challenger if taken to court.

Mr. Whitaker explained that regulatory reform provides one application for all aspects of a land use request, all processed at the same time. This includes administrative and quasi-judicial reviews and the land use issues will run simultaneously and quickly. The process includes one open record hearing to obtain all public input on a land use issue. There can also be one closed record hearing before the local body on any appealed land use issue. Mr. Whitaker stated that a review of land use decisions (Land Use Petition Act (LUPA)) will be held in Superior Court, and LUPA matters would also be put on a fast track (110-120 days).

Mr. Whitaker explained that Washington law vests rights in the property owner upon the submission of a complete application for land use permission. To accommodate that law, the process begins when a development application is made (per O.M.C. 19.01.010) and will be completed within 120 days. He reviewed the development application items that are exempt of Title 19 procedures. Mr. Whitaker advised that staff would have to respond to requests for written reports on the status of any land use application, if the requestor’s identified parcel is within the application. Once the City has a population of more than 7,000, we are required to have identified, dedicated staff to assist any person with a major land use issue. More requirements are imposed once a city has a population of over 10,000.

Mr. Whitaker reviewed the consolidated application process, which includes a preapplication meeting, review of the development application, and the requirement of public notices. Mr. Whitaker then explained that the 120-day permit processing time can be stopped for certain reasons, as provided by in the ordinance and then reviewed some of the time frames, also set by the ordinance. He then briefly reviewed the notice provisions and the public hearing process. Mr. Whitaker explained that an open record hearing is the time for everyone to provide testimony and all evidence is heard. He further explained that it’s important to get all questions asked and all discussions held during the open record hearing. A closed record hearing is an appeal hearing and is a review of the materials submitted at the open record hearing, whereby no new testimony or evidence will be entered. The Council or whatever board is having the closed record hearing will be given a copy of the testimony given at the open record hearing, which will either be a tape or transcription. All material should be reviewed prior to the closed record hearing. Only those that file an appeal will have standing at the closed record hearing.

Mr. Whitaker explained that all persons who wish to speak at a land use public hearing must be sworn in, including at a public hearing before the Planning Commission. He also advised that when a document is included within a public hearing discussion, those documents be submitted, sequentially numbered, and placed into the record as evidence. He advised that it’s important for the chair to maintain order during the public hearing, because the discussions may need to be typed verbatim. He explained that the Planning Commission may adjourn into an executive session to deliberate, as provided by RCW 42.30.110, but any final decisions must be made in public session. Mr. Whitaker noted that the governing board would have to consider their draft Findings of Facts at their next meeting. The adoption of the Findings of Facts begins the time period for an appeal to be filed.

Mr. Whitaker then reviewed the appeal process. He advised that all appeals of the open record hearing must be consolidated. The Planning Commission will never hear a closed record hearing. The reviewing body may also go into executive session to deliberate. The Findings, Decisions, and Conclusions must be prepared and brought back to an open meeting to be reviewed, approved and adopted. This will begin the clock for a LUPA review. If the record is incomplete or flawed, the Council or Hearing

Examiner may remand the matter and it will be brought back to them to correct the deficiencies. He did note that the reviewing body may modify the first board's decision in order to bring it into compliance with laws. Mr. Whitaker advised that a party may also seek reconsideration of the reviewing body's decision, as provided by O.M.C. 19.09.070.

Mr. Whitaker concluded his review of the Chapter 19 process by advising the following: the Appearance of Fairness and Conflict of Interest laws still apply. Any challenges for a stated cause under the Appearance of Fairness law must be resolved on the record at that time. He stated that Title 19 overrides any provisions in O.M.C. Title 13 – 17. He advised that any communication outside of the hearings must be disclosed by any members and the appeal board should not attend the open record hearing, unless they remove themselves from a possible closed record hearing. Title 19 public notice requirements also override the notice requirements in Title 13-17. Appeals of building permits are heard by the Hearing Examiner in an open record hearing. This can be appealed to the Council; therefore an applicant can have two appeal hearings. With the new process, all decisions must be maintained in a written record and failure to make a record of the hearing testimony is an automatic remand. The open record body must ask all questions before the public hearing is closed. He advised to not make decisions that are not properly noted for action and only address the request at hand. He advised that board members' personal knowledge be kept short and make sure that it's relevant because these statements must be made part of the record and cautioned the board members to not become witnesses. He encouraged that the board members ask background questions to the staff before the public hearings.

Mr. Whitaker stated that the staff is addressing various non-conforming uses; including the compliance issues of the mobile home parks on 1<sup>st</sup> Avenue. Although the code permits these non-compliance uses, staff must review those uses to determine any health and safety issues.

The Planning Commission closed their continued meeting at 9:04 p.m.

#### UNFINISHED BUSINESS

Councilmember Cole requested that the Council receive budget updates. Mayor Sanders stated that a budget amendment will be presented in late September and the Finance Officer is implementing the cost allocation process.

Mayor Sanders reported that Mr. Rodney DeLeon has agreed to clean up the accumulation of junk at his property on Main Street. She stated that the Utility Officer has issued the Michik's two citations and staff is proceeding through the nuisance process. The Mayor reported that the Fairboard had considered moving the caboose to the fairgrounds, unfortunately they have not pursued it. The Museum had considered using the caboose as a storage unit for their memorabilia, but has not pursued that further. She stated that the Mid Columbia Seahawks are interested in leaving the caboose at the Old Hotel to use as a tourist attraction. The Old Hotel Board needs to decide if they'll consider their request. She explained that the Chamber has relinquished ownership of the caboose back to the City, although the City has not accepted it by Resolution.

#### ADJOURNMENT

With no further items to discuss, Mayor Jeannie L. Sanders adjourned the workshop at 9:17 p.m.

By: \_\_\_\_\_  
JEANNIE L. SANDERS, Mayor

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