

City of Othello  
Regular Council Meeting  
October 26, 2009

**CALL TO ORDER:**

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

Present: Mayor Shannon McKay, Councilmembers: Ken Caylor, Dan Dever, Kenneth Johnson, Mark Snyder, Marc Spohr, and Tim Wilson.

Also Present: City Administrator Ehman Sheldon; Department Heads: Police Chief Steven Dunnagan, Debbie Kudrna, Darryl Piercy, and Jay Van Ness; and City Attorney James Whitaker.

Absent Was: Councilmember Eleanor Brodahl.

**APPROVAL OF AMENDED AGENDA**

Council carried a motion to approve the amended agenda. M/S Wilson/Snyder.

**CONSENT AGENDA:**

- A. Approval of City Council Minutes of October 12, 2009
- 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.

Expense Claim Check No. 37410 to No. 37450 in the amount of \$158,239.36.

Council carried a motion to approve the Consent Agenda as presented. M/S Caylor/Snyder.

**KIWANIS PARK PARKING LOT OPTIONS**

Mayor McKay explained that the Council had previously discussed additional parking in Kiwanis Park. Municipal Services Coordinator Jay Van Ness presented two new parking lot options for Kiwanis Park. Both proposals would accommodate an additional 30 cars; one at a cost of \$78,000 and one at \$40,000. Mayor McKay advised that for budgeting purposes, money should be appropriated in the 2010 budget and the actual details can be worked out later.

**AWARD 2009 CITY ALLEY APPROACH AND SIDEWALK PROJECT**

Municipal Services Coordinator Jay Van Ness reported that during the budget process \$40,000 was appropriated for alley approaches. The project includes construction of 11 alley entrance pads; construction of a sidewalk at the corner of 9<sup>th</sup> and Pine Street (city owned property); and construction of two handicap ramps. Requests for proposals were sent out for the annual alley and sidewalk project and they received five bids:

Pour Boys	\$36,658.93
Harden Construction	\$39,332.04
J & J Construction	\$39,870.54
DCM Construction	\$42,279.79
Dug Excavation	\$45,723.50

Councilmember Caylor stated that Council has not discussed construction of the sidewalk at 9<sup>th</sup> and Pine Street, and that ownership of the property has not been resolved. He would like to discuss this again before they make a decision about sidewalk construction. He asked that the sidewalk portion of the project be tabled until after the first of the year. Mayor McKay stated that the City has a deed to the property. There is a need for additional parking at Lions Park and that property is being used for additional parking. Mayor McKay agreed that the sidewalk at 9<sup>th</sup> and Pine Street can be removed from the proposal and asked that the Council discuss the status of the property again. Mr. Van Ness advised that the project does not need to be rebid because the sidewalk construction portion of the project was listed separately and can be removed from the total project. He advised that the alley gravel was going to be spread on this property. Council advised that the gravel can still be dumped at this location to help with control of blowing dirt.

Council carried a motion to award the alley approach project, excluding the 9<sup>th</sup> and Pine Street sidewalk project to the lowest, responsible bidder Pour Boys. M/S Caylor/Wilson.

ORDINANCE REGARDING RESIDENTIAL VEHICLE STORAGE

City Planner Darryl Piercy reviewed the modified ordinance relevant to residential vehicle storage. He provided an explanation of what front, side, and rear yards are on a corner and interior residential lot, based upon current code language. He advised that the requirement for a site obscuring fence for back yards is in an existing code, so the proposed ordinance now includes a repeal of that existing code requirement. The new proposal includes gravel as an acceptable parking surface. Mr. Piercy advised that there currently are a lot of nonconforming rear yards, if the site obscuring fencing restriction was strictly enforced. Councilmember Taylor stated that staff was directed to not include rear yard requirements in the proposed ordinance. He is also concerned that two of the same type of recreational vehicles could not be parked in the front yard based upon the proposal. Mayor McKay directed staff to address the front and side yards and leave the rear yard codes as they are now and deal with that at a different time. Councilmember Johnson stated that the proposed ordinance would affect every resident and house and suggested to have it published for our citizens to review.

Franz Laska spoke to the Council and advised that the proposed ordinance affects everyone in the community and our citizens should have the chance to review the proposed ordinance. He asked if there are current ordinances to address the residential parking issues. The Mayor stated that our current ordinances are hard to enforce and the new requirement for a prepared parking surface will address the parking issue. Mayor McKay explained that the Council is trying to set a standard for property owners who are abusing the residential parking rules.

Councilmember Spohr stated that he is ready to vote on the ordinance and all of the elected officials have been elected by their constituents to represent the community.

City Attorney Jim Whitaker made a suggestion that the following sections of the proposed ordinance, which have reference to rear yards could be removed: 8.66.030 B.1.; B.2.; B.3., and C. Councilmember Taylor also suggested that the reference in 8.66.040 B.1. regarding the width of utility trailers be changed from 6' to 8'. He is also concerned of the language in 8.66.030 C regarding the number of recreational vehicles parked on improved parking surfaces. Mr. Piercy advised that the provision of the number of recreational vehicles identified in 8.66.030 B.3. could be removed. Councilmember Johnson explained that many citizens drive their vehicles onto their front yards during snow plowing season to allow for the city snow plows. He is concerned that the proposed ordinance allows inoperable vehicles to be stored for no more than 30 days, noting that many citizens restore old vehicles. Councilmember Taylor asked for further clarification of front and side yards for corner properties and asked about fencing and parking recreational vehicles on what is considered as front yards for corner lots. Mr. Piercy advised that he used the definition in the current code of what constitutes a front, side, and rear yard. On a corner yard that has a 6' high fence, there would be site safety problems.

Councilmember Spohr made a motion to adopt the amended ordinance, with all references to back yards removed and the change to the allowable width of utility trailers from 6' to 8' in 8.66.030 B.1 and B.3. The motion died due to a lack of a second.

City Administrator Ehman Sheldon stated that previously the code had been administered very leniently and Mr. Piercy is presenting what the current code says. He said that previous Planners have allowed garages to be converted into living spaces and there are current codes that can be interpreted differently. He believes the goal is to have the Council understand what they are adopting and staff should administer the code as adopted. Mayor McKay requested staff to address the issues in the proposed ordinance, as discussed, bring it back to the next meeting, and asked the local newspapers to report on the proposed ordinance.

DRAINAGE TILE 7<sup>TH</sup> & OLYMPIA

Municipal Services Coordinator Jay Van Ness explained that the City has experienced flooding at Olympia Street and north 7<sup>th</sup> Avenue when the snow melts off in a short amount of time. He advised that the storm drain maintenance budget is depleted and requested a budget amendment in order to purchase and install a storm drainage tile for that area. The storm drainage tile will divert water away from 7<sup>th</sup> Avenue into a private holding pond in the area. He advised that the adjacent property owner is coordinating additional, preventive maintenance to help alleviate the water drain-off issue and seems very willing to work with the City, including emptying the water

City of Othello  
Regular Council Meeting  
October 26, 2009

out of their pond. Councilmember Caylor asked if the adjacent property would help with some of the costs. Mr. Van Ness explained that the property owner believes that the snow melt/runoff is an act of nature. He stated that the staff proposal would help with future development of the area. Councilmember Spohr stated that he's hesitant to appropriate funding to divert water into a private pond and suggested that a legal document be agreed upon. Mayor McKay suggested that staff talk to the adjacent property owner to see if there something more they could do to alleviate the water runoff issue. Mr. Van Ness stated that there were two properties that were affected by the water runoff last year on Olympia Street and there were several businesses that had problems with the amount of water running down the city streets. Mayor McKay stated that we owe it to the community to minimize potential damage due to the snow melt off from the adjacent farm ground. Mr. Van Ness reported that Olympia Street, between 4<sup>th</sup> and 7<sup>th</sup> Avenues could be paved to full width, without getting additional right of way from the adjacent property owner.

Council carried a motion to approve the \$16,000 expenditure for the storm concrete drain tile for the Olympia Street and 7<sup>th</sup> Avenue area. M/S Johnson/Wilson.

**ORDINANCE ADOPTING OMC TITLE 19 ENTITLED "DEVELOPMENT CODE" AND REPEALING EXISTING OMC TITLE 19 ENTITLED "DEVELOPMENT CODE"**

City Planner Darryl Piercy explained that the next seven ordinances on the agenda are substantially related and each adopts and modifies sections of the municipal code to provide for an administrative enforcement process to effectively enforce and apply regulatory requirements within our code. The new Title 19 ordinance would clarify language within the current code and would provide for administrative enforcement efforts. It would also clarify the process and bring our codes into compliance with state laws. He explained that the question for the Council is whether we should move forward to an administrative enforcement process by adopting the new ordinances. He explained that the new ordinances allow a more efficient means of enforcing the regulatory requirements within our code and provide a revised process for appeal of any enforcement action before the hearing examiner, rather than going through the judicial system. Councilmember Caylor stated that the Council has not had sufficient time to review the proposed ordinances and he noticed some discrepancies within the proposals and it seems they are not in conformance to our code book format. City Attorney Jim Whitaker advised that he wrote the proposed ordinances. He explained that the ordinance amending OMC 1.10 needs to be adopted to come into compliance with State laws. The ordinance amending OMC 1.20 is a modified version of Pullman's code, which has been endorsed by the courts. The ordinances would provide the code enforcement officer's ability to issue an administrative determination that a violation has been committed. This also allows a 10-day comment period to appeal to the Hearing Examiner. This would still allow a due process review before the Council. He explained that Moses Lake has used the proposed ordinances and they have found that nuisance issues can be addressed within 90-120 days. He explained that the Title 19 proposal is a rewrite of the City's current code. He noted that Chapter 19.09.050 is from the recommendation of the City's insurance carrier. Councilmember Caylor asked that a Council committee be appointed to review the proposals. Mayor McKay stated that he trusts the legal counsel recommendations and suggested that the Council take the advice of legal counsel and the planner. Mr. Piercy advised that the Planning Commission passed the ordinances forward with a recommendation to the Council to approve. (Council took action on the Title 19 ordinance later in the meeting).

**ORDINANCE AMENDING OMC 1.10.010 OF CHAPTER 1.10 ENTITLED "GENERAL PENALTY"**

Council carried a motion to adopt AN ORDINANCE AMENDING OTHELLO MUNICIPAL CODE SECTION 1.10.010 OF CHAPTER 1.10 ENTITLED "GENERAL PENALTY". M/S Dever/Snyder. Casting opposing votes were Councilmembers Johnson and Caylor. This shall be known as Ordinance No. 1302.

**ORDINANCE AMENDING OMC 2.21.060 AND REPEALING SECTION 2.21.050 OF CHAPTER 2.21 ENTITLED "PLANNING COMMISSION"**

Council carried a motion to adopt AN ORDINANCE AMENDING OTHELLO MUNICIPAL CODE SECTION 2.21.060 AND REPEALING SECTION 2.21.050 OF CHAPTER 2.21 ENTITLED "PLANNING COMMISSION". M/S Spohr/Snyder. Casting opposing votes were Councilmembers Johnson and Caylor. This shall be known as Ordinance No. 1303.

**ORDINANCE CREATING OMC 1.20 ENTITLED "ADMINISTRATIVE ENFORCEMENT"**

Council carried a motion to adopt AN ORDINANCE CREATING OTHELLO MUNICIPAL CODE CHAPTER 1.20 ENTITLED "ADMINISTRATIVE ENFORCEMENT". M/S Spohr/Snyder. Casting opposing votes were Councilmembers Johnson and Caylor. This shall be known as Ordinance No. 1304.

**ORDINANCE CREATING OMC 2.16 ENTITLED "HEARING EXAMINER" AND REPEALING 17.73 ENTITLED "HEARING EXAMINER"**

Council carried a motion to adopt AN ORDINANCE CREATING OTHELLO MUNICIPAL CODE CHAPTER 2.16 ENTITLED "HEARING EXAMINER" AND REPEALING CHAPTER 17.73 ENTITLED "HEARING EXAMINER". M/S Snyder/Dever. Casting opposing votes were Councilmembers Johnson and Caylor. This shall be known as Ordinance No. 1305.

**ORDINANCE REPEALING OMC 8.26 ENTITLED "NUISANCES" AND ADOPTING CHAPTER 8.26 ENTITLED "NUISANCES"**

Council carried a motion to adopt AN ORDINANCE REPEALING OTHELLO MUNICIPAL CODE CHAPTER 8.26 ENTITLED "NUISANCES" AND ADOPTING CHAPTER 8.26 ENTITLED "NUISANCES". M/S Wilson/Spohr. Casting opposing votes were Councilmembers Johnson/Caylor. This shall be known as Ordinance No. 1306.

Councilmember Caylor advised that the nuisance ordinance does not allow bee keeping. Mr. Piercy stated that the ordinance provides that keeping of any bees, in any manner contrary to law, or which may affect the safety of the public is prohibited. And, as long as it's a legal use and not affecting the safety of our citizens, bee keeping would be allowed.

**ORDINANCE REPEALING OMC 17.92 ENTITLED "VIOLATIONS AND PENALTIES" AND ADOPTING CHAPTER 17.92 ENTITLED "GENERAL ADMINISTRATION AND ENFORCEMENT"**

Council carried a motion to adopt AN ORDINANCE REPEALING OTHELLO MUNICIPAL CODE CHAPTER 17.92 ENTITLED "VIOLATIONS AND PENALTIES" AND ADOPTING CHAPTER 17.92 ENTITLED "GENERAL ADMINISTRATION AND ENFORCEMENT". M/S Wilson/Snyder. Casting opposing votes were Councilmembers Johnson/Caylor. This shall be known as Ordinance No. 1307.

**ORDINANCE ADOPTING OMC TITLE 19 ENTITLED "DEVELOPMENT CODE" AND REPEALING EXISTING OMC TITLE 19 ENTITLED "DEVELOPMENT CODE"**

Council carried a motion to adopt AN ORDINANCE ADOPTING OTHELLO MUNICIPAL CODE TITLE 19 ENTITLED "DEVELOPMENT CODE" AND REPEALING EXISTING TITLE 19 ENTITLED "DEVELOPMENT CODE". M/S Snyder/Spohr. Casting opposing votes were Councilmembers Johnson/Caylor. This shall be known as Ordinance No. 1308.

**NEW BUSINESS**

Mayor McKay made the following announcements:

- Natural Gas Summit meeting is scheduled for Wednesday, October 28<sup>th</sup> at 10:00 a.m.
- Next Monday's workshop will include Council review of 2010 proposed budget. It was decided that the workshop meeting will begin at 6:00 p.m.

Councilmember Caylor reported that the Columbia Basin Development League meet on Thursday in Moses Lake.

**ADJOURNMENT**

With no further items to discuss, Mayor McKay adjourned the Council meeting at 9:23 p.m.

By: \_\_\_\_\_  
SHANNON MCKAY, Mayor

ATTEST:

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