

City of Othello
Regular Council Meeting
November 12, 2013

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: Ken Caylor, Dan Dever, Charles Garcia, Kenneth Johnson, and Mark Snyder.

Also Present: City Administrator Wade Farris; Department Heads: Public Works Director Terry Clements, Police Chief Steven Dunnagan; Finance Officer Spencer Williams, Planner Darryl Piercy, Receptionist Rebecca Perez-Ozuna and City Attorney Katherine Kenison.

Absent Was: Councilmember Genna Dorow and Councilmember Eugene Bain

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

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

CITIZEN INPUT

APPROVAL OF AGENDA

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

CONSENT AGENDA:

- A. Approval of City Council Minutes of October 28, 2013
- B. Approval of City Council Workshop Minutes of November 4, 2013
- C. Approval of Accounts Payable Checks
- D. Approval of Payroll and Related Expenses
- E. Set Public Hearing on the 2014 Budget for November 25, 2013
- F. Resolution to Release Retainage to CWA 2012 Street Improvements – Rebid
- G. Acceptance of 2013 Weed Spraying Contract

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. 43270 to No. 43332 in the amount of \$293,475.62. Payroll Check No. 28559 to No. 28592 in the amount of \$281,403.01.

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

PUBLIC HEARING ON THE 2014-2019 CAPITAL FACILITY PLAN

Mayor Wilson opened the public hearing at 7:03 p.m. Finance Officer Spencer Williams gave a staff report on the 2014-2019 Capital Facility Plan, including projects in the general fund, street fund, water fund, sewer fund, and solid waste fund. The total for the 6-year plan is \$43,617,600 and FY 2014 is \$10,450,600. Mayor Wilson asked for public comments. There was none. Mayor Wilson asked for Council comments. There was none. Mayor Wilson closed the public hearing at 7:08 p.m.

PET RESCUE PRESENTATION

Adams County Pet Rescue President, Mikki Kison; Chairman of Building Committee, Ernie Summers; and Board of Director Member, Kiya Grant, presented to the council a letter referencing an increase to the annual contract between ACPR and the City of Othello which has been held for seven years. Ms. Kison mentioned that during this year they have been experiencing a dramatic increase of dogs down at the pound from 16 dogs a month to 22 dogs a month which has increased their expenses and decreased their ability to offer adoptions for the dogs. The

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increases of animals have also decreased their ability to maintain with contract regulations. Ms. Kison also presented a range that other cities pay for the services that they offer and requested that council take into consideration an increase of \$5,000 annually which would make the contract total of \$15,000.

Councilmember Dan Dever asked what the City of Ritzville does and how that end of the county is managing theirs and received the response from Ms. Kison that ACPR currently receives those animals too and are in current negotiations with them as well and charge them \$50 per dog. Ms. Kison went on to mention that ACPR also incurs all expenses from utilities to care of the dogs. Councilmember Kenneth Johnson commented that the service ACPR provides is a great service which goes in hand with our new code enforcement and mentioned that even at \$15,000 the City of Othello is a good deal compared to other cities. Mayor Wilson thanked them for coming as it has opened their eyes and is great education. Councilmember Kenneth Johnson mentioned that the decision would fall into the budget discussion set for later tonight.

DISCUSSION OF CITIES OF DISTINCTION

Councilmember Kenneth Johnson mentioned that he was contacted by a production company, Cities of Distinction, that has different television channels that are nationally and would like to do a segment on Othello. Mr. Johnson mentioned that the upfront costs for this service would be \$19,800. Council ran a four minute segment the City of Quincy made with the same company which they commented help them tremendously with visitors. Mr. Johnson went on to mention the segment would be hosted by Terry Bradshaw and would be owned by the City of Othello which could be added to our home web page. Mayor Wilson mentioned him and City Administrator, Wade Farris, discussed this with the production company and commented the segment would be shown on major television channels locally.

Councilmember Mark Snyder asked if it would be aired nationally and Councilmember Johnson mentioned that it would aired on Fox, Discovery Channel plus other major network channels. Mayor Wilson mentioned that it would create tourism into our community and would promote other community events. Mayor Wilson commented they will continue with the project and have a scheduled meeting for next Wednesday, November 20th in which he, Kenneth Johnson and City Administrator, Wade Farris, will be involved.

BID AWARD FOR MOON STREET PROJECT

City Engineer, Larry Julius, commented that on October 31st, the City of Othello received 15 bids for the West Moon Street Sewer System Improvement Projects and the bids ranged from \$634,000 to over \$1 million dollars. The low bid was submitted by Pegram Construction of Othello and have checked references and went through all the paperwork to make sure all was correct and checked with the State to make sure all documentation was valid. Mr. Julius commented that of the 15 bids received, 5 of them did have mathematical errors on various bids and none of them however changed the position of the low bid. Even when corrections were made it still did not change the low bids. Mr. Julius commented the low bidder did make a mathematical error in the amount of \$118,000, and they were still under by \$1,100, which is shown on the spreadsheet. The contract has been discussed with the contractor and they are comfortable with the bid. Mr. Julius mentioned they will discuss a deductive change order because the bid was for asphalt restoration and their price came in at \$2,000 and cannot be discussed until the bid is awarded per State Auditor's Office.

Mr. Julius recommended to award the construction bid to Pegram Construction, Inc. of Othello in the amount of \$634,178.03. Councilmember Ken Caylor asked Mr. Julius that since the bid made was under the allotted amount, if there was a possibility to use the grant money for some other portion of that project in that area. Mr. Julius mentioned that he can check with the funding agency and would have to be for the same type of project and that the whole project is funded 100% by the grant.

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Council carried a motion to AWARD TO THE BID TO PEGRAM CONSTRUCTION, INC. IN THE AMOUNT OF \$634,178.03, AND AUTHORIZE THE MAYOR TO SIGN THE CONTRACT. M/S Caylor/Dever.

Councilmember Mark Snyder abstained from voting, as he is an employee with Pegram Construction, Inc.

MOON STREET SEWER PROJECT CONSTRUCTION ADMINISTRATION & INSPECTIONS

City Engineer, Larry Julius, commented that since the bid has been awarded and requested funds for the construction administration, inspection, observation and to assist the city with the daily paper work associated with Public Works project but with the additional paperwork associated with CDBG funded project. Mr. Julius mentioned they are requesting construction administration and inspection services task order in the amount of \$87,000 and mentioned it is covered 100% by the grant.

Council made a motion to approve TASK ORDER NO. 10-13 FOR CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES FOR THE WEST MOON STREET SEWER SYSTEM IMPROVEMENTS WITH GRAY & OSBORNE, IN THE AMOUNT OF \$87,000.00, AND AUTHORIZE THE MAYOR TO SIGN THE TASK ORDER. M/S Johnson/Caylor.

PRELIMINARY BUDGET DISCUSSIONS

Finance Officer Spencer Williams reviewed the proposed capital requests and possible funding sources in the Street, Water, Sewer, Solid Waste Funds and Tourism Fund. He provided information on the minimum ending funds balances and presented a master list of all capital requests. He also provided a list of the various funding sources. The Council reviewed the various capital requests and, if approved, made suggestions for funding. The Council also reviewed capital requests from previous meeting and made their decision on funding.

RESOLUTION TO ADOPT A CODE OF CONDUCT

City Attorney, Katherine Kenison, commented that the City currently has several projects where we are the recipient of federal funds including funds from the CDBG grant and as a requirement of receiving the funds are required to adopt a code of conduct. She also mentioned that if the Code of Conduct is not adopted we can no longer receive the funds.

Council made a motion to approve RESOLUTION TO ADOPT A CODE OF CONDUCT. M/S Garcia/Snyder.

ORDINANCE TO AMEND O.M.C. CHAPTER 4.04 TITLED “BUSINESS LICENSES AND REGULATIONS”

Receptionist/Clerk, Rebecca Perez-Ozuna, commented that changes have been made to the Chapter 4 of the Othello Municipal Code reflecting the increase of city business licenses. The quarterly breakdown the fees will be scheduled and the removal of verbiage that was previously discussed with City Council and the City Finance Committee. She also mentioned that these changes would be for the 2014 City Business Licenses.

Council carried a motion to adopt AN ORDINANCE AMENDING OTHELLO MUNICIPAL CODE SECTIONS 4.04.010, 4.04.060, AND 4.04.110 OF CHAPTER 4.04 TITLED “BUSINESS LICENSES”. M/S Snyder/Dever. This shall be known as Ordinance No. 1385.

ORDINANCE TO AMEND O.M.C. CHAPTER 3.02 TITLED “USE TAX – NATURAL OR MANUFACTURED GAS”

City Finance Officer, Spencer Williams, commented that currently 50% of the revenues that are received into our utility tax are moved into our general fund and the remaining are used for capital purchases which are \$25,000 or greater. He mentioned that throughout the series of budget meetings, it has been proposed to amend it for one year and change it from 50/50 split to a 60/40 split, which would move 60% of the utility tax revenue into the general fund and leave the

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remaining 40% with the same stipulation of \$25,000 for capital purchases. Mr. Williams recommended the approval of the proposed Ordinance amending OMC Section 3.02.080 & 3.03.060. Councilmember Kenneth Johnson asked how much of a difference it would make and Mr. Williams responded that the extra 10% is about \$120,000.

Council carried a motion to adopt AN ORDINANCE TEMPORARILY AMENDING OTHELLO MUNICIPAL CODE SECTION 3.02.080 & 3.03.060 OF CHAPTER 3.02 ENTITLED "UTILITY-OCCUPATION TAX AND LICENSING". M/S Garcia/Dever. This shall be known as Ordinance No. 1386 & Ordinance No. 1387.

ORDINANCE RELEVANT TO A SIX-MONTH INTERIM MARIJUANA ZONING

City Attorney, Katherine Kenison, presented an ordinance that proposes to adopt zoning regulations for an interim period of 6 months and mentioned that if the City is considering this route, they will need to hold a public hearing within 60 days after the date of adoption because it is the context of the ordinance. Ms. Kenison briefly explained her recommending the interim regulations. She also recommended that we look at some interim regulations and get answers on the remaining issues from the State Attorney General's Office and from our Legislature as regards to our extent of authority, as well as what is happening with the medical marijuana and then fold all of those into final regulations. Ms. Kenison commented the ordinance presented essentially takes all the three uses and limits the producers and processors to the industrial zones only and includes a provision to where they can only be done in an indoor structure which eliminates outdoor growing. This would also make retail use in commercial zones and industrial zones only.

Councilmember Kenneth Johnson mentioned that the City Of Kent and the City of Richland were still prohibiting and ask the City Attorney if there has been any progress or any movement on it. Ms. Kenison responded that there are some jurisdictions that feel it is their duty to prohibit it and are using the federal laws to justify it and are anticipating that if a lawsuit does come, there decision will be upheld on the basis because federal law prohibits it they are entitled to prohibit it. She went on to comment that due to the Federal Government's stance it is a risky approach because we are in the 9th circuit. She also stated her concerns from a liability point of view and would be considered a civil rights violation which is not covered in our insurance. Ms. Kenison gave council three choice which were: not to do nothing (which she does not recommend), chose to violate federal law and comply with state law and adopt some sort of zoning regulations, or violate state law and comply with federal law and risk the chance to be challenged. Councilmember Kenneth Johnson stated his personal views on I-502. Councilmember's also inquired into the business licensing aspect.

Council carried a motion to adopt AN ORDINANCE OF THE CITY OF OTHELLO, WASHINGTON, ESTABLISHING A SIX-MONTH INTERIM ZONING ORDINANCE GOVERNING OF PRODUCTION, PROCESSING AND RETAIL SALE OF MARIJUANA IN THE CITY AND ON PAGE 2 UNDER LICENSE CONTROL BOARD TO APPROVE 2 GROWERS FOR ADAMS COUNTY AND NOT CITY OF OTHELLO. M/S Garcia/Caylor. Councilmember Kenneth Johnson vote no. This shall be known as Ordinance No. 1388.

NEW BUSINESS

ACDC that was scheduled for Thursday, November 14th has been rescheduled for the next Thursday, November 21st in Othello.

EXECUTIVE SESSION

Mayor Wilson announced that Council will now adjourn at 9:10 p.m. to go into an executive session pursuant to RCW 42.30.110(1) (b) to consider the selection of a site or the acquisition of real estate by lease or purchase. The executive session is expected to last 10 minutes. No action will be taken during the executive session. Mayor Wilson announced another 5 minutes at 9:20 p.m.; Mayor Wilson announced another 5 minutes at 9:25 p.m.; Mayor Wilson announced another 5 minutes at 9:30 p.m.; Councilmember Charles Garcia announced another 5 minutes at 9:35p.m. Executive session was closed at 9:45 p.m.

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ADJOURNMENT

With no further items to discuss, Mayor Wilson adjourned the Council meeting at 9:46 p.m.

By: _____
TIM WILSON, Mayor

ATTEST:

By: _____
REBECCA PEREZ-OZUNA, Receptionist