

City of Othello  
Regular Council Meeting  
November 23, 2015

**CALL TO ORDER:**

Mayor Shawn Logan called the meeting to order at 7:00 p.m. and led an invocation and the Pledge of Allegiance.

**Present:** Mayor Shawn Logan; Councilmembers: Genna Dorow, Corey Everett, Kenneth Johnson, John Lallas, and Mark Snyder.

**Also Present:** City Administrator Wade Farris; Department Heads: Police Chief Phil Schenck, City Clerk Debbie Kudrna, Finance Officer Spencer Williams and City Attorney Kelly Konkright.

**Absent Was:** Councilmembers Angel Garza and Eugene Bain.

Council carried a motion to approve the absence of Councilmember Angel Garza. M/S Dorow/Everett.

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

**CITIZEN INPUT**

Deena Vietzke, 830 E Larch Street, addressed the Council asking them to reconsider allowing chickens inside city limits. She gave some information about raising chickens and also said that she has spoken to people in other communities that allow chickens and they reported that they do not have any issues. She has collected over 150 signatures from the community on a petition for support of allowing chickens and talked to three families in Othello that would be interested in raising chickens. Ms. Vietzke noted this would encourage our youth to get involved in 4-H and raising animals. Council asked several questions, including what health protections are there in place against the Avian flu. Ms. Vietzke explained that when chickens are cooped up in cages, that is when they could get sick. However, if their area is cleaned frequently and they are not cooped up in cages, this will eliminate the threat. Code Enforcement Miller explained that the proposed ordinance provides that a coop and a run is allowed and it must have a 10' setback from any property line and 50' distance from neighbors dwellings. She noted they should never run wild in a backyard. Ms. Miller also advised that there will be opportunities for educating citizens about taking care of their animals along with a registration process for those citizens housing chickens. Councilmember Everett voiced concerns of the smell and noise from chickens. Councilmember Lallas asked that we impose an inspection of the coop prior to permitting and be able to revoke their license if they don't maintain the coop and run.

Council carried a motion to add the discussion regarding the chicken ordinance to our agenda tonight for further discussion. M/S Johnson/Lallas.

Robert Russell, 850 E. Larch Street, asked Council to change their vote and allow our citizens to raise chickens, provided they abide by the rules.

Rich Young, 1320 E. Fir Street, was surprised that they could not raise chickens in Othello; beings we're in a rural area. He noted that the ordinance is strict and will limit many properties that could not meet the regulations. He also noted his concern about only allowing raising three chickens. Mr. Young stated that the City does not currently perform inspections for issuing a permit with other animals and it seems ridiculous to do inspections to raise three chickens.

Lori Jahns, 565 S. 6<sup>th</sup> Street, advised that people enjoy raising chickens; it is a healthy activity and asked Council to vote yes on the ordinance.

**APPROVAL OF AGENDA**

Council carried a motion to approve the agenda, with the addition of the discussion for the chicken ordinance. M/S Snyder/Lallas.

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**CONSENT AGENDA:**

- A. Approval of City Council Minutes of November 9, 2015
- B. Approval of Accounts Payable Checks
- C. Resolution to Release Retainage for the Well #9 Transmission Line
- D. Resolution to Release Retainage for the Main Street Sewer Line – 6" Force Main Project
- E. Motorola Service Agreement

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. 5241 to No. 5248 in the amount of \$3,952.40.

Accounts Payable Check No. 45981 to No. 46039 in the amount of \$590,658.38.

Council carried a motion to approve the Consent Agenda, as presented. M/S Johnson/Dorow.

**ORDINANCE REPEALING OTHELLO MUNICIPAL CODE 6.12 AND CREATING OTHELLO MUNICIPAL CODE CHAPTER 6.12 ENTITLED "CHICKENS AND RABBITS"**

Mayor Logan asked if the proposed ordinance also allows other avian species. Chief Schenck explained that the ordinance provides a definition of other avian species; however the ordinance only allows chickens and rabbits, with an exception of carrier pigeons and other small domestic pet birds. Mayor Logan reviewed the proposed ordinance. There was discussion about the location of the coops and runs within property; and there was a suggestion for a twenty five feet distance from any neighboring dwelling and ten feet from any property line.

City Attorney Kelly Konkright suggested that since this agenda item was added to the Council agenda tonight; Council could build a consensus of what to consider and add it to a future agenda for further consideration.

Mayor Logan reported that this will be added to the December 14<sup>th</sup> agenda for a public hearing and reconsideration. Councilmember Lallas advised that he would like to see an inspection performed by the Code Enforcement Officer, prior to issuing a permit. Councilmember Dorow noted there needs to be some kind of health guarantees too. Chief Schenck stated he has researched this issue and found it is very unlikely to find Avian flu; and if found, the Health Department would be involved. Chief Schenck noted that we will need to include some language about an exception allowing businesses to sell chickens.

**PUBLIC HEARING ON THE MARIJUANA MORATORIUM**

Mayor Logan opened the public hearing at 7:43 p.m. City Attorney Kelly Konkright reported that we renewed the moratorium in May, 2015; at which time the Council extended the moratorium for another six months. He explained that the time is right for Council to either regulate the retail and processing of marijuana or extend the moratorium another six months. Mr. Konkright recommended the Council approve an additional six month extension of the moratorium and forward this to the Planning Commission for review of zoning.

Councilmember Lallas asked what the state law is relevant to medical marijuana dispensaries and growing medical marijuana. Attorney Konkright stated that marijuana dispensaries are allowed and the concept of collective gardens is no longer relevant. Mr. Konkright stated that some communities have banned all marijuana retail sales through zoning ordinances, which has been upheld in courts.

Mayor Logan asked for comments from those in support of the Attorney's marijuana moratorium report. There was none. Mayor Logan asked for comments from those neutral of the Attorney's report. Ms. Erika Rattray asked if the City would get sales tax from the sales of marijuana. Mayor Logan advised that if we ban the sale of marijuana within the city, we would not receive any sales

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tax revenue. She asked that the Council be more open to what these companies may offer to the community. Councilmember Johnson noted that the city used to get revenue from the sale of liquor; however, the State has interfered in the distribution of taxes and there's no guarantee of sales tax revenue.

Mayor Logan asked for comments from those in opposition of the Attorney's report on the moratorium. Christy McNeely, 608 Davenport in Richland Washington advised that all medical and retail stores have to merge as of July 1, 2016 and medical marijuana stores will become illegal. She gave information on the medical use of marijuana and about the use of marijuana from the Federal Government and the National Cancer Institute. She asked that Council not extend the moratorium and allow retail sales of marijuana in Othello. Mrs. McNeely advised their marijuana retail store was open in Pasco and closed after three weeks and they are currently in litigation with the City of Pasco. Mayor Logan stated that Othello voted 66% against legalization of marijuana and the Council will have to listen to both sides of the issue. Mrs. McNeely noted some conditions that other communities have imposed on retail sellers, including conditional use permits.

Michael McNeely, 608 Davenport in Richland, stated that extending the moratorium will continue to allow the black market sale of marijuana and the city will not collect sales tax on the retail sales. Marijuana has been legal in Washington for two years and the communities in western Washington have not found any issues from the sales of marijuana. Councilmember Lallas asked if the McNeely's were looking for an alternative location, since their retail store was closed in Pasco. Mr. McNeely noted that when you attract any tourism, you don't necessarily create more crime and may create more spending in a community. They may submit an application for retail sales in Othello.

Mrs. McNeely commented that they both voted against Initiative 502 because of how it was written; however, they both anticipate that the State will fix some of the issues within it. Attorney Konkright noted that the moratorium will allow time for the consideration of restrictions and what is right for the community and how to proceed.

Mayor Logan closed the public hearing at 8:14 p.m.

Councilmember Johnson asked how the County Commissions stands on moratoriums. Tyler Fryberger of the Othello Outlook noted that he recently talked to the County and the will abide by the State law. Councilmember Snyder asked if there is a way to figure out retail sales revenues. Tyler Fryberger explained that there is a formula that the State uses for distribution of sales tax.

Council carried a motion to extend the moratorium and send it to the Planning Commission. M/S Dorow/Johnson.

**1<sup>ST</sup> AVENUE IMPROVEMENTS PAYMENT APPLICATION #1**

City Engineer Kurt Holland reported that Award Construction is requesting payment for work completed on the 1<sup>st</sup> Avenue Improvements project. TIB has agreed to hold the grant funding to spring to pay for the completion of the project. The contractor has requested a winter shutdown until spring for the asphalt and striping work and Varela is in agreement with their request. The sidewalk installations and ADA ramps have been completed and the engineers are satisfied with the work completed so far. The restart date will be dependent upon the weather and when the asphalt plant opens. Mr. Holland also noted that the City has been advised they have been awarded \$750 million in TIB grant funding for the south end of 1<sup>st</sup> Avenue.

Council carried a motion to approve the contractor's payment application #1 for the 1<sup>st</sup> Avenue Improvement Project. M/S Dorow/Snyder.

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**CONTRACT WITH ADAMS COUNTY PET RESCUE**

City Administrator Wade Farris reported that the proposed contract with Adams County Pet Rescue (ACPR) only includes a change in the payment of \$20,000 per year. Attorney Konkright recommended an amendment to the indemnity clause. Councilmember Lallas asked what are they spending the \$20,000 on and is there any tracking of the services they provide. Mr. Farris noted that their prior report included the number of animals and the cost to care for the animals. Chief Schenck noted that there is a section of the new building for city dogs and a section of the building for county animals. Councilmember Johnson noted that ACPR comingles their funds and provides a valuable service and we don't ask for the Fire Department to report each dollar that the City pays to them for fire service. Councilmember Lallas suggested a set value, not to be negotiated every year and include an abandonment clause (for dogs left by owners in the city). Chief Schenck advised that they are reviewing the city's current animal ordinance. Councilmember Lallas asked that we extend the term of the contract to three years.

Council carried a motion to approve the new contract with Adams County Pet Rescue, with the recommended change to the indemnification clause, and amend it to a two year contract. M/S Lallas/Everett. Councilmember Snyder cast an opposing vote

**RESOLUTION TO SURPLUS EQUIPMENT**

City Clerk Debbie Kudrna advised that Adams County Fire Department provided a list of City fire equipment that is outdated and not working properly. She explained that it would not be beneficial for any other fire department to obtain this outdated equipment and Public Works does not want the equipment.

Council carried a motion to approve the Resolution to surplus the equipment. M/S Dorow/Everett. This shall be known as Resolution No. 2015-27.

**ORDINANCE TO AMEND THE 2015 BUDGET**

Finance Officer Spencer Williams explained that the Council has given direction to add specific items to the 2015 budget during the past year.

Council carried a motion to adopt the ordinance amending the 2015 budget. M/S Dorow/Johnson. This shall be known as Ordinance No. 1449.

**ORDINANCE TO ADOPT THE CAPITAL FACILITY PLAN 2016-2021**

Finance Officer Spencer Williams presented the Capital Facility Plan for 2016-2021. The public hearing has been held and Council proposed a couple changes, which have been incorporated into the CFP plan.

Council carried a motion to adopt the 2016-2021 Capital Facility Plan. M/S Snyder/Dorow. This shall be known as Ordinance No. 1450.

**ORDINANCE TO ADOPT THE AD VALOREM PROPERTY TAX**

Finance Officer Spencer Williams explained that as part of the budget process, the Council must pass an ordinance fixing the amount of revenue provided by property taxes.

Council carried a motion to adopt the Ad Valorem Tax Ordinance for fiscal year 2016. M/S Lallas/Dorow. This shall be known as Ordinance No. 1451.

**UTILITY TAX ORDINANCES**

Finance Officer Spencer Williams reported that Council had proposed changing the distribution of revenues collected by the City from the utility tax revenues that are transferred into the general fund for 2016. Council had decided to use 91% of the expected utility tax revenues for capital and operational needs of the city. This amount needs to be transferred into the general fund to fund capital improvement projects. The allocation distributions are included in two sections of the municipal code.

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Council carried a motion to adopt the proposed Ordinance temporarily amending OMC Section 3.02.080. M/S Snyder/Lallas. This shall be known as Ordinance No.1452.

Council carried a motion to adopt the proposed Ordinance temporarily amending OMC Section 3.03.060. M/S Dorow/Lallas. This shall be known as Ordinance No. 1453.

**RESOLUTION TO SET THE GENERAL FUND MINIMUM FUND BALANCE**

Finance Officer Spencer Williams reported that Council's consensus was to reduce the general fund minimum balance from \$500,000 to \$400,000.

Council carried a motion to adopt the Resolution to establish a new minimum fund balance for the general fund, for a one year period for 2016. M/S Dorow/Johnson. This shall be known as Resolution No. 2015-28.

**ORDINANCE TO ADOPT THE 2016 BUDGET**

Finance Officer Spencer Williams presented the 2016 budget. Staff and Council have worked through the budget, line by line and Council set priorities for 2016 to meet the goals of the departments and the community.

Council carried a motion to adopt the 2016 budget ordinance as presented. M/S Dorow/Lallas. This shall be known as Ordinance No. 1454.

Mayor Logan thanked Mr. Williams; all department heads; the City Administrator and the Council for working through the budget process.

**UNFINISHED BUSINESS**

There was none.

**NEW BUSINESS**

Mayor Logan made the following announcements:

- A Transportation Benefit District, also known as the TBD, meeting has been scheduled for Monday, December 7, 2015 at 6:30 p.m.
- Shop with a Cop is scheduled for Saturday, December 12<sup>th</sup>.
- The Christmas tree will be put up next week in the City Hall lobby. Staff is taking donations of youth hats, gloves and scarves to hang on the tree. All donations will be taken to the Fire Department to be included in the Christmas baskets, which will be delivered on Saturday, December 19<sup>th</sup>.
- Join our local businesses and the Chamber of Commerce on this Saturday, November 28<sup>th</sup> for the "Small Business Saturday Shop-a-thon". Part of the event will be set up in the parking lot at 455 E. Cedar Street. There will also be various local stores participating in the event from 10 a.m. until 2 p.m.

**ADJOURNMENT**

With no further items to discuss, Mayor Logan adjourned the Council meeting at 9:06 p.m.

By: \_\_\_\_\_  
SHAWN LOGAN, Mayor

ATTEST:

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