

City of Othello
Regular Council Meeting
November 26, 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, Dan Dever, 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, Parks and Recreation Coordinator Molly Klippert, City Clerk Debbie Kudrna, Finance Officer Spencer Williams; and City Attorney Katherine Kenison.

CITIZEN INPUT

Eric Morgan, Pine Street, advised that he's been working on the City's Christmas display for Pioneer Park and asked who owns the display because he would like to give them back. He is opposed to the proposed quadrants in Pioneer Park and asked for cooperation in the placement of all decorations. He made comments on the proposed policies and regulations relating to putting decorations in the park and stated that Santa Claus' post office is going up December 1st.

APPROVAL OF AGENDA

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

CONSENT AGENDA:

- A. Approval of City Council Minutes of November 13, 2012
- B. Approval of Accounts Payable Checks
- C. Resolution to Release Retainage to Outback Weed Spraying

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. 41872 to No. 41873 in the amount of \$78,898.13.
Accounts Payable Check No. 41874 to No. 41918 in the amount of \$160,364.94.

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

PUBLIC HEARING ON THE PLANNING COMMISSION'S RECOMMENDATIONS

Mayor Wilson opened the public hearing at 7:07p.m. and City Planner Darryl Piercy gave a staff report on the Planning Commissions' recommendations relevant to the rezone request filed by A. J. Ochoa. The Planning Commission considered the request to change the zoning of property located between 7th and 14th Avenues and Lee Street south to Olympia Street. Currently, the area is zoned residential and Mr. Ochoa has requested it be changed to open space. Mr. Ochoa also asked that the Othello Municipal Code be changed to allow electric fences in open space zones. The Planning Commission recommends amending the zoning of this area to open space, which would allow for continued agricultural use and the occasional grazing of sheep. The Planning Commission also recommends that language be added within the open space zone code that electric fencing would be permitted with the following conditions: a setback of 25' must be maintained and there be appropriate signage in both English and Spanish to advise of the electric fence hazard. Mr. Piercy also recommended two additional conditions relevant to the ordinance: all equipment shall be UL approved and properly maintained and electric fencing material shall be considered temporary and used only when animals are present.

City Attorney Katherine Kenison advised that she is concerned of the liability of electric fences and the possibility of the animals escaping from a fenced area. She recommended that the Council review the areas that livestock and electric fences are allowed and if the Council supports the Planning Commission's recommendations, they should also consider the additional two

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conditions, as proposed by Mr. Piercy. Mr. Piercy noted that the only other open space in the city limits is the area west of this property.

Mayor Wilson asked for citizen comments. There was none. Mayor Wilson asked for Council comments. Councilmember Snyder noted that there is open space/urban and open space/recreational provisions in the Othello Municipal Code and asked if the proposed fencing ordinance would apply to both. Mr. Piercy stated this would apply to open/space urban. Councilmember Dorow asked what the City's liability will be having an electric fence across from the school. City Attorney Kenison advised that if the Council is considering allowing electric fencing, they should consider whether it is compatible to allow it next to higher density or urban uses. The City's insurance carrier has recommended not allowing electric fences because of the risks.

Chris Schuling, Operations Manager of A. J. Ochoa Farms, advised that the electric fence is solar powered. The sheep will be on the grass 14-20 days every four years and the sheep are allowed to graze the field to enhance the grass production.

Mayor Wilson closed the public hearing at 7:26 p.m.

ORDINANCE TO ADOPT REZONE

Council carried a motion to adopt AN ORDINANCE AMENDING THE CITY OF OTHELLO ZONING MAP. M/S Garcia/Johnson. This shall be known as Ordinance No. 1372.

ORDINANCE TO AMEND O.M.C. 17.56.17 REGARDING ELECTRIC FENCES

Councilmember Bain asked if they could limit use of an electric fence to 30 days. City Attorney Kenison advised that it could be worded "seasonal and no more than XX days".

Council carried a motion to adopt AN ORDINANCE AMENDING THE CITY OTHELLO MUNICIPAL CODE SECTION 17.56.17 REGARDING ELECTRIC FENCES, with the addition of Section 5: Animals and electric fences can be present up to maximum of 45 days per year. M/S Johnson/Garcia. This shall be known as Ordinance No. 1373.

PUBLIC HEARING ON THE CAPITAL FACILITY PLAN

Mayor Wilson opened the public hearing at 7:31 p.m. and Finance Officer Spencer Williams gave a staff report on the 2013-2018 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 \$26,379.100. Mayor Wilson asked for public comments. There was none. Mayor Wilson asked for Council comments. Councilmember Johnson noted this is to include projects up to 2018 and there are several projects that are not included and asked that we include \$80,000 annually for a fire truck. City Administrator Ehman Sheldon stated that staff had found that omission and will program the financing in the plan. Mayor Wilson closed the public hearing at 7:35 p.m.

ORDINANCE TO ADOPT THE CAPITAL FACILITY PLAN 2013-2018

Council carried a motion to adopt AN ORDINANCE ADOPTING A SIX-YEAR CAPITAL FACILITY PLAN FOR 2013-2018, as presented. M/S Garcia/Dorow. This shall be known as Ordinance No. 1374.

PUBLIC HEARING ON THE 2013 BUDGET

Mayor Wilson opened the public hearing at 7:36 p.m. and Finance Officer Spencer Williams gave a staff report on the 2013 budget. Mr. Williams advised that the budget has been compiled from comments and meetings held with staff and Council. He advised that to balance the budget, 70% funding from the Utility Tax was initially used. This was corrected to use 50% from the Utility Tax into the General Fund, noting that each of the funds still maintain the minimum fund balance. Mr. Sheldon advised that the Council will revisit the appropriations of the Utility Tax next year. Mayor Wilson asked for public comments. Mr. Shawn Logan, 1005 E. Hamlet, asked why the General Fund estimated ending fund balance is lower than years before; whether there is a program

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budgeted for next year that we haven't done in the past. Mr. Sheldon asked that staff meet with Mr. Logan and then clarified that it's both operational and capital expenditures that affect the ending fund balance and Council has discussed about spending down the fund balance and looking at new revenue sources. Mayor Wilson asked for Council comments. Councilmember Caylor asked where the increase in revenue projections in the real property reserve fund came from. Finance Officer Williams clarified that it was appropriations of funds for park purchase. Mayor Wilson closed the public hearing at 7:48 p.m.

ORDINANCE TO ADOPT THE 2013 BUDGET

Finance Officer Spencer Williams advised that the City will be operating on a \$14,577,354 budget. Council carried a motion to adopt AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OTHELLO WASHINGTON, FIXING THE BUDGET FOR 2013, SETTING FORTH APPROPRIATIONS AND ESTIMATED REVENUES AND ADOPTING, BY REFERENCE, THE FINAL BUDGET FOR 2013. M/S Dorow/Dever. This shall be known as Ordinance No. 1375.

ORDINANCE TO AMEND O.M.C. APPENDIX S TO CHAPTER 12.16 RELEVANT TO SEWER RATES

Finance Officer Mike Bailey reported that the Council Committee and staff propose a 10% increase to the sewer rates each year for 2013, 2014, and 2015. The increase would facilitate the sewer reserve fund for improvements to the sewer treatment plant and maintain the facility, as required by the Department of Ecology (DOE).

Council carried a motion to adopt AN ORDINANCE AMENDING OTHELLO MUNICIPAL CODE APPENSIX S TO CHAPTER 12.16 OF CHAPTER 12.16 ENTITLED "WATER AND SEWER SERVICE AND RATES". M/S Dorow/Caylor. This shall be known as Ordinance No. 1376.

APPROVAL OF CERB GRANT

City Administrator Ehman Sheldon advised that the City has received a CERB grant in the amount of \$19,500 for a Main Street lighting project.

Council carried a motion to authorize Mayor Wilson to sign the CERB grant in the amount of \$19,500. M/S Caylor/Dorow.

PRIVATE DISPLAYS ON PUBLIC PROPERTY POLICY

Park and Recreation Coordinator Molly Klippert explained that the issue before the Council is whether to allow private displays in Pioneer Park. She noted that the City Attorney and the City's insurance carrier have reviewed the issue. She proposed four quadrants be set for Pioneer Park, to allow four entities to set up displays. She advised that there will be a \$25 application fee and a \$50 deposit that can be returned, if all rules and regulations are followed by those setting up decorations in Pioneer Park. The rules include when decorations can be erected and taken down and the approval process. She recommended that the application process be implemented next year.

City Attorney advised that there are special interest groups that may challenge the permitting process. Councilmember Garcia noted that we are setting a deadline and if we only have one party that applies, they should have free reign of the park and asked if the committee could become a non-profit organization. Mr. Morgan stated that if there is a fee on the application, he will not be pay. Councilmember Snyder asked that the date to take down the decorations be moved to January 10th.

Council carried a motion to adopt the proposed requirements for public displays, with the removal date of the decorations changed to January 10th. M/S Snyder/Garcia.

NEW BUSINESS

Councilmember Johnson stated that I-502 regarding legalizing marijuana in Washington State has passed. Attorney Kenison explained that the collective medical marijuana gardens issue will stay its course and we are still going to have to deal with the zoning issue. State licensed growing

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operations will not be licensed until December 1, 2013. The State has up to one-year to adopt regulations on collective gardens. As of December 6th, in Washington, for those 21 years or older, it will be legal to possess a limited amount. It is still not legal to purchase, sell or grow until the State adopts regulations. She advised that there are deficiencies how the legislation was drafted. Councilmember Johnson asked if we could become a dry city and ban marijuana until the legal issues are figured out. Attorney Kenison advised that we cannot adopt stricter laws than what the State has permitted. There is nothing that a city can do, except to follow the new law. Mr. Sheldon advised that for the City to apply for federal funding, we have to have a drug free policy.

ADJOURNMENT

With no further items to discuss, Mayor Wilson adjourned the Council meeting at 8:19 p.m.

By: _____
TIM WILSON, Mayor

ATTEST:

By: _____
DEBBIE L. KUDRNA, City Clerk