

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, Genna Dorow, Charles Garcia, Kenneth Johnson, and Marc Spohr.
Also Present: City Administrator Ehman Sheldon; Department Heads: Finance Officer Mike Bailey, Public Works Supervisor Terry Clements, Police Chief Steven Dunnagan, City Clerk Debbie Kudrna; and City Attorney Katherine Kenison.
Absent Was: Councilmember Mark Snyder.

CITIZEN INPUT

Rodney Deleon, 1212 E. Main Street, stated that he has one truck and trailer parked on his property on Main Street and he has received a letter from the City notifying him that he cannot park it at that location. He asked for permission to park his truck on his property, noting that it is for sale. He was advised by a police officer that he needs to move it from this property. Mayor Wilson reported that there is an ordinance that prohibits parking trucks in this particular zone. Randy Deleon stated that there are people interested in purchasing this truck, so it would not be parked on that property for very long. Mayor Wilson advised that unless the Council is willing to entertain a motion to change the ordinance Mr. Deleon cannot park his truck there. City Attorney Katherine Kenison explained that this particular property is not zoned for parking trucks. Mr. Deleon stated that he was able to park his trucks on this property in the past. Mayor Wilson offered that Mr. Deleon come to City Hall tomorrow to discuss the provisions of the ordinance. Randy Deleon asked when the Council started not recognizing the grandfather clause for parking trucks on Main Street.

APPROVAL OF AGENDA

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

CONSENT AGENDA:

- A. Approval of City Council Minutes of August 8, 2011
- B. Approval of City Council Workshop Minutes of September 6, 2011
- C. Approval of Accounts Payable Checks for August 22, 2011
- D. Approval of Accounts Payable Checks for September 12, 2011
- E. Approval of Payroll and Related Expenses

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 Checks Check No. 40123 to No. 40164 in the amount of \$112,444.60.
Accounts Payable Checks Check No. 40165 to No. 40248 in the amount of \$253,355.84.
Payroll Check No. 27383 to No. 27450 in the amount of \$283,572.20.

Councilmember Caylor asked for a correction to the September 6, 2011 workshop minutes relevant to the City Hall parking lot striping project, as follows: Mr. Sheldon noted that the City Hall painting bids came in low and we could use some of this funding for that project.

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

2ND PUBLIC HEARING – NOANET FRANCHISE ORDINANCE

Mayor Wilson opened the public hearing at 7:14 p.m. He advised that this is the required 2nd public hearing regarding the request for a franchise. City Administrator Ehman Sheldon introduced Mr. Chris Walker, Director of Operations of NoaNet. He advised they are a nonprofit organization, formed in 2000. They received funding to support broadband fiber optic network services in Washington and began construction about 6 months ago. They are planning expansion of their broadband service infrastructure, including into Othello. Mayor Wilson asked for public comments. There were no comments. Mayor Wilson asked for Council comments. Councilmember Johnson asked if NoaNet would be competing with the fiber service that Adams County funded a

few years ago. Mr. Walker stated that he didn't expect that the County is trying to obtain revenue from the telecommunications business and it is common for Counties to build their own network. Mr. Sheldon advised that the City Attorney has reviewed the proposed franchise ordinance and NoaNet has complied with the City requirements. Mayor Wilson closed the public hearing at 7:18 p.m.

CONSIDERATION TO ADOPT NOANET FRANCHISE ORDINANCE

Council carried a motion to adopt AN ORDINANCE GRANTING A FRANCHISE TO NOANET, INC FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF COMMUNICATIONS AND TELECOMMUNICATIONS FACILITIES WITHIN THE CITY OF OTHELLO. M/S Dorow/Johnson. This shall be known as Ordinance No. 1349.

PUBLIC HEARING – PLAN FOR MAINTAINING ADEQUATE CAPACITY (SEWER)

Mayor Wilson opened the public hearing at 7:20 p.m. City Engineer Larry Julius explained that the City received a planning only grant from CDBG to prepare a report pertaining to the wastewater treatment plant. The report is titled "Plan to maintain adequate capacity" dealing with total suspended solids at the wastewater plant. One of the requirements of the grant funding is to hold the public hearing to review the engineer's report and receive comments. Nancy Morter of Gray & Osborn explained that they have prepared an engineer report required by Department of Ecology (DOE) as part of the City's NPDES permit to discharge into Owl Creek. The requirement for the plan is part of the Clean Water Act. The only problem that DOE was concerned with was total suspended solids (TSS) influent, since we were over our permitted capacity quite often. The engineers analyzed five years of data. Ms. Morter reported that our effluent limits are well below the permitted limit for most of the time. The TSS effluent is the quality of water discharged into Owl Creek. They also measured the biochemical oxygen demand influent and found we are often under the permitted capacity. The biochemical oxygen demand effluent has also been under the permit limit. The City ran a series of tests to help with the engineer's analysis. It is unknown what the TSS influent is from, noting it is most likely from a commercial or industry discharger. Gray & Osborn does recommend that the City do additional sampling throughout town to find out if there is a specific source of possible dischargers of organic waste.

Ms. Morter concluded that the wastewater treatment plant meets the permit limits; the wastewater treatment plant is properly sized for biochemical, oxygen demand, permitted capacity; the TSS is not typically a design parameter for lagoon wastewater treatment plants and they recommend that the City request the Department of Ecology increase the City's permitted capacity limit for TSS. Mayor Wilson asked for public comments. There were no comments. Mayor Wilson asked for Council comments. The Mayor noted that DOE has been pressuring us to build a new sewer treatment plant and if we got the TSS permit increased, would that defer this discussion. Ms. Morter advised that we currently do not have to comply with ammonia discharge; however, if they impose an ammonia limit in the future, that would be one issue to support a new facility. As the State regulations increase, the testing models may change. Ms. Morter explained that on some of the parameters, we are 50%-60% at capacity, except for the TSS influent. Councilmember Dorow explained that our lagoons can physically hold more; however, the amount of TSS influent is above what our permitted amount is. Ms. Morter noted that they did not perform enough testing to determine exactly where the commercial or industrial discharge is coming from. It could be a cross connection at one of the commercial or industrial locations. Councilmember Spohr asked about the algae bloom. Ms. Morter noted that it is common to have algae bloom and there are various ways to try to reduce that amount. Councilmember Johnson asked when the City should ask for the modification of the permit. Ms. Morter recommended that the City ask for that modification now because we are outside the permitted capacity. Mayor Wilson closed the public hearing at 7:44 p.m.

CONSIDERATION FOR ADOPTION - PLAN FOR MAINTAINING ADEQUATE CAPACITY (SEWER)
Council carried a motion to approve the City of Othello plan for Maintaining Adequate Capacity - sewer. M/S Dorow/Caylor.

CONSIDERATION OF ACCEPTANCE OF CDBG GRANT FOR WASTEWATER SYSTEM IMPROVEMENTS – FEDERAL FUNDS \$920,000

City Engineer Larry Julius advised that the City has been awarded \$920,000 grant from CDBG to provide sewer infrastructure to the West Moon Street area of town and an additional \$50,000 from

Adams County. This property is located south of SR 26 and west of the SR 24 industrial area and railroad tracks, and east of the Potholes canal. The City also received \$50,000 from a private property owner and has \$80,000 of in-kind funds as the City's contribution. The City's portion was paid by the Public Works Trust Fund loan that we received for the design of the utilities. Mr. Julius recommended acceptance of the \$920,000.

Council carried a motion to accept the \$920,000 CDBG grant. M/S Dever/Dorow.

CONSIDERATION TO ADOPT WATER COMP PLAN

City Engineer Larry Julius reported that the City's water comprehensive plan has been submitted to the Department of Health. DOH has finished with their review and has asked that the City officially adopt the plan. This plan was submitted to DOH in November and he reported that nothing has changed in the plan.

Council carried a motion to adopt the City's Water Comprehensive Plan. M/S Caylor/Johnson.

Mr. Julius advised that they are meeting with the contractor tomorrow morning to discuss options for correcting the vibration at Well #6. He noted that the contractor will have to correct the vibration at the well. The fluoride tests are averaging 4.85 mg/L. The well was pumping as much as 20 hrs/day last month; however, the demand has reduced and he recommends that Public Works keep the water flowing to see what the fluoride levels are at different pumping rates. He noted that staff are taking tests at the well head and at other locations and the fluoride levels at other locations are for the most part under 4 mg/L. Councilmember Spohr questioned whether we need to drill another well. Mr. Julius explained that DOH will still only allow pumping Well #6 when water demands are high. Councilmember Caylor asked if a mixing tank at the well would meet the fluoride level requirement from DOH. Mr. Julius explained that DOH's requirements is to have under 4 mg/L at the first service, closest to the well, so a mixing tank could work. They may require a considerable amount of testing to assure the fluoride will stay under 4 mg/L. Councilmember Spohr noted that it has also been discussed dedicating the water from Well #6 to the industrial customers. Mr. Julius noted that it has also been discussed to dedicate the water from Well #6 water for industrial water that could be traded for industrial water to be used in the city system. Mr. Julius noted that DOH is considering lowering the fluoride down to 2mg/L-3 mg/L, which would impact all of our wells.

CONTRACT FOR SERVICE – PAINTING OF CITY HALL

Public Works Supervisor Terry Clements explained that there is \$20,000 budgeted to paint the exterior areas outside City Hall. Bids were received and the low bid was submitted by AA Painting Specialists in the amount of \$12,264. Mr. Sheldon advised that the contract that was posted in the BoardDocs agenda packet was changed today, after review by the City Attorney.

Council carried a motion to accept the contract with AA Painting Specialists. M/S Garcia/Dever.

CONTRACT FOR SERVICE – CITY HALL ADA COMPLIANCE

Public Works Supervisor Terry Clements advised that there is \$15,000 budgeted to do ADA work in City Hall. Bids were received and the low bid was submitted by All Doors, Inc. in the amount of \$3701.46. The electrical work will be performed by Berk's Electric, through the contract that we have with them and that amount is \$1723.07. Mr. Sheldon advised that the contract that was posted in the BoardDocs agenda packet was changed today, after review by the City Attorney. Mr. Clements advised that the carpenter work at the front counter is outside of this bid and will also be paid out of the original funding.

Council carried a motion to accept the contract with All Doors, Inc. M/S Caylor/Dorow.

CANNABIS GARDEN DISCUSSION/ORDINANCE

City Attorney Katherine Kenison explained that with the recent amendments to the medical marijuana law in Washington, many cities have imposed an interim ordinance adopting a moratorium on the establishment of medical marijuana collective gardens. The legislature law allows collective gardens for growing medical marijuana. Federal law still considers any possession and distribution illegal. The Governor vetoed portions of the bill because she was concerned that it would involve state employees review and regulation of marijuana gardens,

which could be interpreted as in violation of federal laws. There are currently few regulations on collective gardens, other than they have to be screened from the general public. She recommended the Council adopt the temporary 6 month moratorium for collective gardens, giving the City time to study the issue and time to see if the legislature will make some changes to the new law. The Attorney will work with the City Planner to produce some regulations. Councilmember Caylor noted when the State began considering allowing medical marijuana; there were questions about where the patients were going to get it, since it is still illegal according to federal government laws. Councilmember Johnson asked if federal laws supersede state and local laws relevant to marijuana and would the collective gardeners be the patients or the growers that will sell the product. Attorney Kenison advised that federal law doesn't necessarily pre-empt the state law, it's on a parallel track. The new law has taken away the criminal aspect for this activity at a state law and the federal level still remains. The participants of the collective gardens have to be qualified patients that have been authorized by doctors and they can't sell it to others that are outside of the collective garden. Police Chief Dunnagan advised that the moratorium will assist their department with enforcement. Without it, it would be difficult to track who are growers and patients.

Council carried a motion to adopt the INTERIM ORDINANCE OF THE CITY OF OTHELLO ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA COLLECTIVE GARDENS, DEFINING "MEDICAL MARIJUANA COLLECTIVE GARDENS"; PROVIDING FOR A PUBLIC HEARING; ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING THAT THE MORATORIUM, UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF THE DATE OF ADOPTION. They also set a public hearing to receive public input for September 26, 2011. M/S Dorow/Dever. This shall be known as Ordinance No. 1350.

DESIGNATION OF PUBLIC WORKS DIRECTOR

Mayor Wilson advised that about 14 months ago, our Municipal Service Coordinator quit and we have not replaced that position. Mr. Terry Clements has been doing the work of the Municipal Service Coordinator along with the Public Works Supervisor responsibilities. He asked the Council to appoint Mr. Clements as the Public Works Director and change his job description to become an exempt salaried employee and increase his wage to \$65,000 annually. Councilmember Garcia asked if there is a need to add another public works crew member. Mayor Wilson advised they have talked about that. Mr. Sheldon said they have discussed this issue with our union negotiator, Kevin Wesley and they have concluded that Mr. Clements does not supplant a crew member position. He also advised that we currently have a vacancy on the crew and Mr. Clements has asked to not fill that position right now and would like to discuss this during the budget process. There was more Council discussion. Mr. Sheldon explained that the union allows an additional \$250 per month for a team lead position; however, no one wants that position. All of the public works crew members directly report to Mr. Clements.

Council carried a motion to appoint Terry Clements to the position of Public Works Director. M/S Caylor/Garcia.

RESOLUTION TO SURPLUS EQUIPMENT

City Administrator Ehman Sheldon reported that the computer equipment listed in the resolution is obsolete and no longer has value to the City. He recommended that we surplus the computers to the Vietnam Veterans of America, Washington State Council, Richland Washington and the other equipment will be sold via Property Room or eBay.

Council carried a motion to approve A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OTHELLO, WASHINGTON DECLARING SURPLUS. M/S Dorow/Garcia. This shall be known as Resolution No. 2011-22.

RESOLUTION TO CHANGE PETTY CASH/CHANGE FUNDS

Finance Officer Mike Bailey advised that during the 2009 annual state audit, the State Auditor recommended adding two more cash drawers in City Hall for making change in cash transactions when receipting money. We would then have four cash drawers at the front counter. He noted that this is an accountability issue and will tighten up the internal procedures. Councilmember Spohr asked about how much resource will be dedicated to balancing. Mr. Bailey explained that procedure.

Council carried a motion to approve a RESOLUTION TO RE-ESTABLISH PETTY CASH/CHANGE FUNDS. M/S Johnson/Dorow. Councilmember Spohr cast an opposing vote. This shall be known as Resolution No. 2011-23.

UNFINISHED BUSINESS

Councilmember Caylor thanked staff for helping to get S. 14th Avenue open prior to the opening of the County Fair. Mayor Wilson advised that the School District is responsible for maintaining the construction area. Councilmember Dever asked questions about the bus route at Scooteny Elementary School. Mr. Sheldon noted that he believes that the route has been changed.

Councilmember Garcia asked that the Mayor and the Administrator consider giving Mr. Deleon a temporary, short term parking permit for his truck. Mr. Sheldon said that he will go through the current process with Mr. Deleon. Councilmember Dever noted that there is a tractor and trailer parked behind the professional building at Main & 11th Avenue. Councilmember Johnson asked if the roller on Main Street made any difference in the bumps. Mr. Sheldon advised that it did not correct the bumps. There was discussion regarding the Main Street traffic lights.

NEW BUSINESS

Councilmember Spohr stated that he believes that we could save money on the city's phone bills. He asked if the Council would consider replacing the dirt at the Lions Park ball fields during the budget process. He also asked for Council to consider an ordinance to prohibit yard sale signs along Main Street. Mr. Sheldon advised that there is a current law that prohibits affixing signs on utility poles and the Code Enforcement Officer takes down yard sale signs that the location does not have a yard sale permit.

Mayor Wilson advised that Council received a list of budget committees and budget dates and if they want any changes, to contact Mr. Sheldon.

Mayor Wilson made the following announcements:

- The next Mayor's luncheon has been moved to September 21st at noon at the Senior Center. Todd O'Brien, Adams County Public Works Director, will be the featured speaker.
- The Pool Committee meeting to close out the 2011 season has been scheduled for Thursday, September 22nd.

ADJOURNMENT

With no further items to discuss, Mayor Wilson adjourned the Council meeting at 9:03 p.m.

By: _____
TIM WILSON, Mayor

ATTEST:

By: _____
DEBBIE L. KUDRNA, City Clerk