

May 10, 2010

The Chehalis city council met in regular session on Monday, May 10, 2010, in the Chehalis city hall. Mayor Pro-tem Dawes called the meeting to order at 5:18 p.m. with the following council members present: Terry Harris, Bob Spahr, Daryl Lund, and Chad Taylor. Mayor Ketchum and Councilor Pope were absent (excused). Staff present included: Merlin MacReynold, City Manager.

1. **Executive Session.** Mayor Pro-tem Dawes announced the council would be in executive session pursuant to RCW 42.30.110(1)(g) – public employee performance review for approximately 45 minutes and there would be no decision following conclusion of the executive session.

Mayor Pro-tem Dawes closed the executive session at 6:07 p.m. and announced the council would take a five minute recess and reopen the regular meeting at 6:12 p.m. Additional staff included: Bill Hillier, City Attorney; Judy Schave, City Clerk; Glenn Schaffer, Police Chief; Kelvin Johnson, Fire Chief; Peggy Hammer, Human Resources Administrator; Bob Nacht, Community Development Director; Eva Lindgren, Finance Manager; Tim Grochowski, Public Works Director; and Rick Sahlin, Street Superintendent. Members of the news media included Adam Pearson of *The Chronicle* and Paul Walker of KITI.

2. **Introductions.** City Manager MacReynold introduced Ben Smith, who recently started doing some temporary/summer intern work for the city. Mr. Smith talked briefly about his background and the work he would be doing for the city. He felt it would be a great experience, and appreciated the opportunity.

3. **Consent Calendar.** Councilor Taylor moved to approve the consent calendar comprised of the following:

- a. Minutes of the regular meeting of April 26, 2010; and the special work session of May 3, 2010;
- b. Claim Vouchers No. 96659-96793 in the amount of \$174,967.90 dated April 30, 2010; and Payroll Vouchers No. 33559-33642 and 1413-1481 in the amount of \$703,323.11 dated April 30, 2010; and
- c. Set date and time of May 24, at 6:05 p.m. for a public hearing concerning the city's 2011-2016 Six-Year Transportation Improvement Program.

The motion was seconded by Councilor Spahr and carried unanimously.

4. **Staff Reports.**

a. **National Avenue and Louisiana Avenue Repairs as Requested by the City Council.** City Manager MacReynold reported at the last regular meeting the council requested staff take a look at National Avenue and Louisiana Avenue, to see what we could possibly do to move forward with getting them repaired. He noted they already had a lot of possibilities in the hopper, as noted in the agenda report.

Tim Grochowski reported they had been pursuing grants and funding for the last ten years, at least for National Avenue. He noted Louisiana Avenue had been on the Six-Year Transportation Improvement Program (STIP) two times, but was not eligible for federal funding because it was not a federal route. Mr. Grochowski indicated they had recently submitted paperwork and Louisiana Avenue was now considered a federal route. He noted they had been feverishly trying to get grants and had applied for the federal jobs bill, Representative Brian Baird's federal appropriations request, stimulus funding, and had applied for a joint project with the city of Centralia on National Avenue.

Mr. Grochowski reported they met last week with a representative from the United States Department of Agriculture (USDA) to discuss a loan opportunity for street repairs. He indicated the USDA did a project in Tenino, Washington, as well as some other street projects in other cities. Mr. Grochowski recommended they wait a week or so for the outcome of the grants already applied for, before proceeding to look for other funding sources.

City Manager MacReynold stated as things play out they still need to be looking at other opportunities, and consider long-term funding with reference to the two projects in conjunction with some other projects. He felt a loan was a very real possibility; however, they needed to have an on-going identified revenue stream to pay it off. City Manager MacReynold still hoped they might be able to get some federal funding to do the needed repairs.

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Mayor Pro-tem Dawes thought the point of identifying a revenue source was appropriate, adding as much as they needed to have it done, he couldn't support it without a way to pay for it. He noted an ounce of prevention was worth a pound of cure, and if they could jump on the cracks and take care of them temporarily they needed to do that, otherwise the streets were just going to become more deteriorated.

b. **Update on E-verify.** Mayor Pro-tem Dawes reported the last time the council spoke on the subject was back in October 2009, and at that time they decided to take a 'wait and see' approach to see what other jurisdictions had done. He noted staff was asking for council direction on the matter.

City Manager MacReynold reported the issue came about from a citizen request, and because so few jurisdictions had moved forward with it, it was recommended we wait. He noted since that time, many more jurisdictions were beginning to use the system.

City Clerk Judy Schave reported she had provided the council with some background information on e-verification, most of which they had seen before. She indicated, to date, the agencies who had signed up or passed ordinances in support of e-verify were: the cities of Washougal, Yakima and Lakewood, and Pierce County. Ms. Schave noted Lewis County recently signed up for e-verification for their employees and would be presenting a resolution to the County Commissioners in the next month or so, requiring e-verification for contracts of \$100,000 or more.

Ms. Schave noted the internet provided a lot of the same information, adding there were those who are in favor of it and those who opposed it; all giving their opinion of what they believed was best. She stated in the end, it would be the council's decision on how they want staff to proceed on the matter. City Manager MacReynold added, based on the discussion, if the council wanted staff to proceed to do e-verify he encouraged them to give that direction, and at the next meeting staff would bring back an ordinance for the council's consideration.

Mayor Pro-tem Dawes reported the last time they discussed the matter it was mostly to do with projects that were \$100,000 or more, or they could set the amount. He noted for employment purposes, he thought the city was already verifying employees. Ms. Schave noted employees were required to fill out an I-9 form, which was not the same as e-verify.

Mayor Pro-tem Dawes stated the two areas they would be looking at were contracts the city administers, and employment, to make sure people who work for the city are legal to work. Councilor Taylor brought up the issue of giving direction on the dollar amount, as well.

Mr. Jack Tipping (2101 Hwy 508) thanked the council for considering e-verify for the city. He spoke in support of e-verify, adding he felt the federal government had let them down in regards to illegal immigration, and believed e-verify was one of the few tools we had at the local level to discourage illegals from coming here. Mr. Tipping brought up other issues, such as jobs, economic and financial costs, and crime. He was convinced the financial burden to the city would be non-eventful and urged the council to adopt e-verify to help protect United States citizens.

Stan Lupkes (310 N. Rock, Centralia) stated he supported e-verify because it was a citizen's duty to obey, uphold and support the law, and felt the council had the responsibility to lead the way. He believed illegals from all countries lent itself to slave labor practices. Mr. Lupkes also believed it devastated people of Spanish ancestry who had been in this country for more generations than any of our ancestors. He stated it was not right that illegals should be able to jump the line the way they do and get support from the local, state, and federal government.

Scott Hamilton (Graf Road, Centralia) stated he wanted to take e-verify to the contractor level, noting instances of contractors and sub-contractors bringing in crews of non-English speaking persuasion. He noted it was typical for the dry-wall industry to hire illegal workers and charge them union dues, and never have to pay the dues back because they won't be in the country long enough. Mr. Hamilton stated he would like to see e-verify in the sub-contractor level because that was where most of the abuse was taking place, and suggested many of those jobs would be below the \$100,000 mark.

Mayor Pro-tem Dawes stated it was his understanding that e-verify had to do with the total project bid and anyone connected to the project would have to go through the e-verify process, which would include the subs. Ms. Schave stated that was her understanding, as well.

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Robin Roy (186 Calvier Road, Cinebar) stated as a citizen she had concerns about family, jobs, and homes being in danger of illegal aliens. She noted there were people in the United States who were not bought into the American way, our culture, or our sense of right and wrong. Ms. Roy believed jobs for American citizens were being affected because contractors who use illegal workers are able to underbid other contractors who pay regular wages. She stated she strongly supported e-verify and hoped that each one of the council would act on behalf of the American citizens.

Mayor Pro-tem Dawes thanked the four speakers for coming to the council to give their opinions on the matter. He noted even if enacted, it would not address all their concerns because there were certain things it would not cover.

Mayor Pro-tem Dawes stated he would like to have the council formulate some direction to give to the administration, as to what they would like to have done with it.

Councilor Harris wondered how they would be assured sub-contractors are using the system and proving they meet the criteria. Ms. Schave stated it was her understanding there would be language in the bid document stating they would have to e-verify, and any subcontractors under the contractor would also be subject to the same guidelines. City Attorney Hillier noted there would be a written certification process where subs, as well as the general contractors, certify that they have done a background check on all their employees that are on the job. He noted they could have them update their information if the contract should run over a long period of time.

Councilor Harris felt the problem they had when producing legislation was whether or not they have enough teeth in it. He suggested some sort of fine or percentage penalty be stipulated in the ordinance, so they don't have to come up with something after the fact. He suggested we look at what others have done and add similar language to include some sort of financial or fiscal challenge if the contractors fail to meet the criteria. Mayor Pro-tem Dawes suggested looking at the federal e-verify, adding he thought they would have some type of sanction if someone doing a federal contract violated the provisions they certified.

Councilor Spahr reported it was his understanding the city would have the ability to set parameters on how much was mandatory, and how much was not. He felt if they could put in what they expect and it doesn't cost the city anything, he didn't see why they wouldn't do it.

Councilor Lund stated he supported e-verify and thought all contracts should be included, not just those over \$100,000. He reported there were people out there who are using social security numbers that don't belong to them. Councilor Lund indicated he wanted to see the ordinance tight enough so people that belong to this country could get a job; and to keep illegals who don't deserve them from getting them. He stated it needed to be known the City of Chehalis was not going to put up with it.

Councilor Taylor stated he was going to make the same comment as Councilor Lund, adding any contract from zero to whatever should require e-verify.

Mayor Pro-tem Dawes felt the issue of a penalty for violating the terms should be researched, noting again, the federal e-verify process probably had some kind of penalty clause if provisions were violated. He stated he didn't see any significant cost or workload for the city, other than adding a line to the contract document stating the contractor certifies anybody working under the main contract, or under a sub-contractor would go through the e-verify process.

Mayor Pro-tem Dawes brought up the issue of the dollar amount, noting he knew the city probably issued a few contracts under \$100,000, but felt the annual contracts for rock and like items that we purchase from local vendors would not be an issue. City Attorney Hillier reminded the council about the small works roster, which was used for small contracts where the city just calls and gets three estimates. He stated they could certainly add those types of jobs to the document and require them to follow the same procedures. Mayor Pro-tem Dawes felt the contractors on the small works roster also do bigger contracts elsewhere, and were probably already signed up to do it.

Mayor Pro-tem Dawes stated he was a proponent of e-verify back in October and remained supportive. He noted based on the consensus of the council, there was at least interest from the five council members present for staff to put together an ordinance for their consideration. He noted the ordinance should include any contract that the city issues. Councilor Dawes didn't believe it was going to be that difficult, because a lot of the contractors who do the big dollar jobs were probably already

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doing it.

Councilor Lund asked if there was a way to require the contractor e-verify all employees, to make sure they were not just sending those who had been verified to do work for us, and continue to use illegal workers to do other work for them. City Attorney Hillier felt by requiring all of them, we would run into difficulties in doing our checks and balances. He also noted, with reference to the penalty, it should not involve shutting the contractor down because that would only penalize the city. City Attorney Hillier suggested the process involve a monetary penalty and/or other requirements if violated. He stated they could make it real interesting because all contracts require a five percent retainage and the city could just set the penalty against it, adding they could iron those details out as they go through the process.

Mayor Pro-tem Dawes thought there was a provision for existing contracts, which noted they could not go back retroactively. He talked briefly about the small works roster, adding they could not go back retroactively on that either, but the next time they call for the small works roster the administration needed to include language stating e-verify would be required.

Councilor Spahr stated it really sounded like it was going to be more on the employer and not so much the city. Mayor Pro-tem Dawes felt Councilor Spahr's point was right, adding it was clearly up to the employer to do the verification.

City Manager MacReynold stated with the information they had, and with more jurisdictions doing it, the steps to make it happen were really pretty clear. He agreed they weren't talking about a lot of staff time; it would just be another step they have to go through.

Councilor Taylor stated he would like to see the ordinance written in a way where it is not realistic for a contractor or anybody to do business with the city and break the rules. He liked the thought of withholding the retainage, adding he also liked the idea of having penalties high enough to deter people from breaking the law. Councilor Lund agreed.

Councilor Harris stated as a businessman, he wanted to know what the process was and what kind of cost was involved for an employer/contractor to implement e-verify. Councilor Taylor noted it was stated earlier that it would take about five minutes per employee. Councilor Harris stated he wasn't speaking against the process, but felt they needed to look at it from all sides and find out what kind of responsibility it was going to put on the contractors. He felt smaller contractors might be taken out of the loop if it took a lot of staff time or work just to do a \$1,500 job.

Mr. Tipping reported there was a tutorial on the internet that takes the employer about an hour-and-a-half to walk through, and after that about five minutes per employee. He noted there was no cost to the employer, but there were companies out there that will do it for a small fee per employee.

City Manager MacReynold noted he could empathize with Councilors Taylor and Lund, with reference to holding the retainage; however, what was worrisome to him was they already required retainage for contracts, and if they were going to require additional retainage to deal with the issue of e-verify it might be too burdensome and discourage contractors from doing work for us, especially the local contractors who already sharpen their pencils as much as they can.

Councilor Spahr asked if it would be useful to start working on an ordinance and then have a work session to review it and pick some of the stuff out. Mayor Pro-tem Dawes stated, as far as the penalty, he would go back to his original thought which was to look at what had been done by other jurisdictions, or look at what the federal e-verify stated as a penalty. He suggested they first look at the draft and if they felt at that time they need to do a work session, they could do that. Councilor Harris stated he would like to see that happen, and would also like to see the retainage in the draft for discussion purposes, with the ability to drop that part out later if they decide to do that.

Councilor Lund stated if a businessman was doing things right, he wouldn't care what the retainage was because if he does the job right, he'll get it all back.

Councilor Taylor noted, for him, it wasn't about the retainage, he just wanted to see the fine or penalty so stiff that it's not worth breaking the law.

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5. **Council Reports.**

a. **Update on Chehalis Flood Authority.** Councilor Taylor reported the Governor was given a budget that had some strings attached to it as to how the flood authority would operate, noting all the projects they do would have to be reviewed and re-reviewed and probably reviewed again. He indicated a letter was sent to the Governor from Grays Harbor, Lewis County, and the flood authority, asking if she would clarify or back off on some of the strings she attached. Councilor Taylor reported the Governor went ahead and signed the budget without changing it, which meant they had to operate under the current language for the next year. He stated they would continue to try to get something done with the budget language, because all it was going to do was add extra steps that were going to cost the taxpayers an extreme amount of money for stuff they were already going to do on a lesser level. Councilor Taylor felt it also gave authority to people who shouldn't have authority over our project. He stated two years ago the Governor said she wanted to be supportive and do what the locals wanted to do, but after she signed the budget with the current language it, was clear she wanted to do what staff and other entities want us to do.

b. **Chehalis River Basin Partnership Update.** Councilor Harris reported he would be chairing the basin partnership meeting next week, noting the Chair and Vice-Chair were not going to be able to attend.

c. **Upcoming High School Musical and Cancer Walk.** Mayor Pro-tem Dawes reported the "Every Other Year" musical was on at the high school if they had a chance to see it, this coming Thursday, Friday and Saturday, at the Chester Rhodes Auditorium, at R.E. Bennett School. He noted he would also be helping out the Lewis County Historical Museum making 'donkey' ears during the Cancer Walk, at Tiger Stadium in Centralia.

6. **Tabled Item - Resolution No. 9-2010, First and Final Reading – Adopting New City Nickname.** Councilor Taylor moved to un-table Resolution No. 9-2010.

The motion was seconded by Councilor Spahr and carried unanimously.

City Manager MacReynold noted the nickname was one of the two recommendations brought before the council a few weeks ago, with reference to a city tagline and nickname. He noted the proposed nickname was being recommended by the Renaissance Committee, and if the council decided not to take any action on the item it would not slow down the process of the committee.

Mayor Pro-tem Dawes noted the two potential actions the council could take were to offer a motion to adopt Resolution No. 9-2010; or, when the chair calls for anything and hears silence he would deem there was no interest on the part of the council to take any action, and it would die.

Councilor Spahr stated he didn't have any problem with the proposed nickname, adding it was interesting that the process had been so complicated and heartfelt by everyone. He noted the media often referred to Chehalis as the 'mint' city and didn't know if they would ever get over the 'mint, rose, or friendly' city when it all happens. Councilor Spahr stated it was interesting it took the path it had taken, but in a way he appreciated it because it showed people's interest in how important it was. Councilor Spahr stated he would just as soon wait to see what they say.

Mayor Pro-tem Dawes called one last time to see if anyone had a motion to offer.

There being no motion, the chair deemed no interest on the part of the council to pursue the item, and the resolution was declared dead.

7. **Ordinance No. 856-B, Second Reading – Amending the 2010 Budget.** Ms. Lindgren reported she had made two minor changes to the ordinance since the first reading, which were identified and highlighted in the report. Ms. Lindgren reported when she went back and reviewed her work, she found they needed additional funding because she had shown a reduction instead of an increase to the budget. She noted the only other item added was a request from the police department to use gambling enforcement funds to purchase two motorcycles for the department.

Mayor Pro-tem Dawes inquired as to what types of bikes were being purchased. Police Chief Glenn Schaffer noted they would both be Kawasaki.

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Councilor Taylor moved to pass Ordinance No. 856-B on second and final reading.

The motion was seconded by Councilor Spahr and carried unanimously.

8. **Progress on UGA Issues**. Councilor Lund noted Mr. Nacht was an asset to our town and progressive of industry. He inquired about the meeting with the city of Centralia concerning the urban growth area (UGA), wanting to know what they were supposed to do and what the policy was on getting things done. Councilor Lund stated he gets frustrated when he's with a group of businessmen downtown and gets called on the carpet about people wanting to get things done in our community, and being told the city couldn't do anything because staff was too busy with the budget, and now months later nothing's happening.

City Manager MacReynold reported he didn't know about the most recent situation Councilor Lund was referring to, but, with reference to the city of Centralia, in conversations with former City Manager Patrick Sorensen, their position was they were doing some further research, and at that time they were not willing to have a joint meeting with us. He noted since Mr. Sorensen's departure from the city of Centralia, there had been no communication further about it.

Councilor Lund stated he wished people would tell the people concerned from our city that it wasn't us. He added everybody was looking down their nose at him asking why the city wasn't doing anything about it. City Manager MacReynold reported he had that conversation with the engineering firm months ago, after he was told by Centralia that they were not moving forward until they had done more research on their side.

Mr. Nacht stated if anyone had any concerns, as opposed to speculation, about what was going on with a permit application or a project, they needed to come to his office and sit down and discuss it, adding he could give them up to date information as to what was happening. He reported as the rumor mill runs rampant around town they don't know what's happening, and the city can't do anything about it.

City Manager MacReynold reported he would follow up with the engineering firm to confirm they know where we're at. Councilor Lund stated it wasn't them, it was other people. He indicated he just wanted to know what they could do to make something happen. City Manager reported the only contact he had was with the engineer, and not knowing who Councilor Lund was referring to, he didn't know who was upset with what the city was doing, or not doing.

Mayor Pro-tem Dawes stated, with all due respect, if there was property in the UGA or some other jurisdiction, the city certainly had no control over the process. He noted it was very easy to point fingers, but felt City Manager MacReynold had Councilor Lund's points and Councilor Lund was given some updated information, adding they could both address the issue from there.

There being no further business to come before the council, the meeting adjourned a 7:17 p.m.

Mayor

Attest:

City Clerk

SUGGESTED MOTION

I move that the council approve the minutes of the regular city council meeting of May 10, 2010.