

October 12, 2009

The Chehalis city council met in regular session on Monday, October 12, 2009, in the Chehalis city hall. Mayor Ketchum called the meeting to order at 6:00 p.m. with the following council members present: Dr. Isaac Pope, Robin Fuller, Chad Taylor, and Dennis Dawes. Councilor Harris was absent (excused) and Councilor Lund participated telephonically. Staff present included: Merlin MacReynold, City Manager; Mark Scheibmeir, Assistant City Attorney; Judy Schave, City Clerk; Bob Nacht, Community Development Director; and Eva Lindgren, Finance Manager. Members of the news media in attendance included Marquise Allen of *The Chronicle* and Paul Walker of KITI.

1. **Consent Calendar.** Councilor Dawes moved to approve the consent calendar comprised of the following:

a. Minutes of the regular meeting of September 28, 2009; and

b. Claim Vouchers No. 94733-94860 and 82009 in the amount of \$326,241.09 dated September 21, 2009; Payroll Vouchers No. 32846-32962 and 930-1002 in the amount of \$717,987.39 dated September 30, 2009; and Claim Vouchers No. 94861-94954 in the amount of \$301,173.48 dated October 5, 2009.

The motion was seconded by Councilor Pope and carried unanimously.

2. **Staff Reports.**

a. **Update on E-Verify Ordinance Request.** City Manager MacReynold reported the issue of an E-Verify ordinance came up at the last council meeting as a recommendation during citizen business. City Clerk Judy Schave reported the administration met and discussed the request for an ordinance, and felt it was best to contact the Association of Washington Cities (AWC) to find out where they stood on the issue. She was informed that it was really too new to know anything as of yet. Ms. Schave noted AWC also contacted Municipal Research and found they had nothing to report on the issue as of yet either. She indicated Pierce County recently passed an ordinance requiring E-Verify, as well as the City of Lakewood.

Ms. Schave reported she spoke with Archie Smith, Lewis County Human Resources Administrator, about the two different types of E-Verify programs. The first was a standard e-verification program that applied to all new employees and all contracts bids; and the second program, regarded as 'Federal E-Verify,' required e-verification on all federal contracts performed in the United States that were over \$100,000, and more than 120 days. Ms. Schave noted the federal requirement went into affect on September 8, 2009, which meant all jurisdictions were now required to request e-verification on contracts that met the federal criteria. She noted 'Federal E-Verify' would also apply to any city employee working on a federally funded project. Ms. Schave stated the administration was recommending the council wait and take another look at the issue in year or so, to see if AWC had an opinion on the issue at that time.

Councilor Dawes didn't understand why we would wait a year, and had never heard of the city running its ordinances by AWC. He wondered if the county passed an ordinance requiring E-Verify if it would apply countywide. City Manager MacReynold indicated it would only apply to the county. Councilor Dawes stated he would like to see the city go forward with it, rather than wait. He didn't believe it would shortcut or lengthen any contracts, or make them any more expensive. Councilor Dawes felt it would be an extra layer of protection to make sure contractors were complying, and it would be nice to be ahead of the issue. He suggested the city use Lakewood's ordinance as a model.

Councilor Fuller asked what would need to be done to move forward. City Manager MacReynold reported an ordinance would need to be developed and brought back to the council for consideration. He reported he had some concerns with E-Verify because the city was already verifying its employees according to federal law, and as of September 8, 2009, we were already going to have to require contractors to E-Verify their employees. City Manager MacReynold stated a majority of the city's contracts would not fall under the federal requirements of E-Verify, and the council would need to determine if they want those contractors to verify all of their employees, as well. City Manager MacReynold stated he would prefer the city be cautious about writing a law and taking on the burden of those requirements without first taking time to let the other jurisdictions work out all the bugs.

Councilor Fuller asked how the city verified its employees to know the documentation is not forged of false. Ms. Schave reported the city required employees to provide their drivers license, social security card, and to fill out the standard forms, such as the I-9. She noted the city also had access to the Department of Social Security to verify names and

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social security numbers. Mayor Ketchum felt just because the city required those documents didn't always mean they didn't forge them. He indicated he would also like to see the city pass an ordinance and felt waiting a year was too long. City Manager MacReynold noted waiting a year was just a suggestion from the management team, adding it was no special number. He stated the administration could develop an ordinance to bring before the council, and at that time the council could choose to act on it, or wait a little longer to think about it.

Councilor Pope asked what the ordinance would accomplish. City Manager MacReynold reported it was just an additional step to ensure our employees are not illegal. Councilor Pope stated he understood that, but felt we were already doing that as far as the city's employees were concerned; and we were already being required to use Federal E-Verify for federal contracts. Ms. Schave reported an E-Verify ordinance could require verification for all contracts, as well as all new employees.

Councilor Pope asked if the city had any definitive problems with illegal immigrants working on contracts awarded by the city. Ms. Schave noted they would not know that information because contractors are only required to submit prevailing wages paid on each contract.

Councilor Pope asked what the detriment would be of waiting. City Manager MacReynold noted it was just more work. Councilor Dawes suggested if we didn't want to work, that we just all go home. City Manager MacReynold stated we already do work.

Councilor Dawes reported with any state or federal contract there were so many assurances that needed to be signed off on, and if there was anyone who could say they assured everything they could sell him some coastal property in Kansas. He added there were too many things that had to be assured. Councilor Dawes stated more work was not a reason to delay, adding he would like to see an ordinance brought forward; however he would be willing to work with the rest of the council. City Manager MacReynold explained that was not the reasoning he gave for not wanting to do it, adding he was responding to a specific question.

Councilor Taylor asked if the city was required to check on contractors to make sure they E-Verify their employees. City Manager MacReynold noted that was a good question; however, it was too new to know. Ms. Schave noted when she talked with Mr. Smith, she inquired as to what type of information would be submitted by the contractor to know they had verified their employees. She noted Mr. Smith was under the impression the contractor would need to notify the city in some manner, but was unsure of what was required. Councilor Taylor asked what additional work it would create if the city implemented E-Verify. Ms. Schave indicated they would initially have to incorporate the appropriate language into all bid documents, and believed we could register to do standard e-verification at any time. She noted, with regard to contracts that met the federal requirements, agencies were not allowed to sign up for 'Federal E-Verify' until after a contract was awarded.

Councilor Pope noted it appeared there would be some type of penalty if we didn't comply, and wondered why we should if there was no penalty for not. Ms. Schave noted funding for federal projects could be denied if we did not comply with the federal contractor rule. Councilor Pope stated he would like to see what the City of Lakewood had in their ordinance. He noted he also had concerns about enforcement and asked if the city was ready to put in an enforcer that they could make legal without a challenge. Assistant City Attorney Mark Scheibmeir reported he didn't see any legal impediments other than being concerned about not going too far in creating altogether new problems. He recognized the issue of discrimination, based upon lack of citizenship, was appropriate; however if it was somehow linked into something beyond citizenship, there would be a price to pay. Mr. Scheibmeir stated it needed to be done in a way that ensured that it was in fact accurate and does not become discriminatory, or enter into a protected class.

Councilor Dawes understood the purpose of E-Verify, at the local level, was to catch those things that were not federal contracts. He believed there were a number of non-federal contracts awarded by municipalities that are not covered by the federal law.

Mayor Ketchum thought contractors were supposed to have it in place and they would need to prove to the city they had done the work. He felt the I-9 forms could easily be faked and believed E-Verification would catch them.

Councilor Taylor asked if it would include all contracts the city currently had. It was noted it would only apply to future contracts.

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Mayor Ketchum requested that the administration provide a copy of the ordinances from the City of Lakewood and from Pierce County. The consensus of the council was they would review the information provided and discuss the matter at the next meeting.

### 3. Council Reports.

a. **Events Attended by the Council.** Councilor Dawes reported he and Mayor Ketchum attended the Fire Prevention Week awards ceremony on Saturday, noting former Fire Captain Brian Slater, was in attendance to make the presentation of the first "Captain Brian Slater Fire Prevention Award Winner." Mayor Ketchum felt it was nice to recognize someone while they were still with us, rather than after they were gone.

Councilor Dawes reported the Marine Band made a visit to Chehalis a few weeks ago. He stated it was a shame they didn't have a better turnout because they played some fantastic music.

4. **Ordinance No. 846-B, Second Reading – Budget Amendment.** Eva Lindgren reported she had highlighted all the changes made to the budget amendment since the first reading of the ordinance on September 28. She noted the most notable change had to do with the police department union contract. Ms. Lindgren stated they estimated the cost for the 2009 contract to be \$100,000; however, after processing the retro payment, it came out to \$132,000.

Councilor Fuller inquired about the sale of the Wi-Fi equipment reported in the tourism fund, noting the number was smaller than what he thought it would be. Ms. Lindgren reported the Wi-Fi equipment was purchased equally by the tourism fund and the community development block grant fund, and the proceeds from the sale were split equally between the two funds.

Councilor Fuller brought up the compensated absences fund, noting in 2008 it appeared to be over a million dollars. Ms. Lindgren reported because we were doing cash basis accounting, there was no where on the books to show the liability. She noted at the end of 2008, the city owed over one million dollars in compensated absences for all of the employees that would be charged to the general fund, which included the special calculation for sick leave cash-outs. Ms. Lindgren stated the goal was to build up a buffer to cover future cash-out expenditures, and because the process was very time consuming, they only did the calculations annually. Councilor Fuller asked if the number would be bigger by the end of 2009. Ms. Lindgren noted it would depend, but felt it would just build as employees build up their leaves.

Councilor Fuller asked if the 'building up' of the compensated absences fund was a 25-year project, and if so, shouldn't they look at doing it faster. City Manager MacReynold believed they should because it was an unfunded liability, and if the city had two or three employees with longevity who decide to leave or retire, the \$50,000 would be gone and then some. He noted the liability was very real and his hope over the next few years was to have at least half of what they know was unfunded built up in the compensated absences fund to cover those liabilities. Councilor Dawes stated it was similar to the state pension system, adding in good times it gets funded, and in the tough times priorities get shifted and that funding mechanism goes away.

Councilor Fuller inquired about the \$50,000 that was moved to the city manager's budget from the office of economic development (OED). Ms. Lindgren noted since the cost center for OED was now closed and the administrative assistant position was moved to the city manager's budget, she was shifting anything left in the OED budget to the city manager's budget.

Councilor Fuller asked Ms. Lindgren to explain the partial one-time amendment of \$50,000 in the equipment and machinery account, which came from council donated benefits. Ms. Lindgren reported one of the focuses she put into working on the 2010 budget was to highlight all of the one-time expenditure and revenues, and reoccurring revenues and expenditures. She felt by identifying them it would make it easier to see through all of it. Ms. Lindgren stated, with regard to the donated councilor insurance premiums, since they had not been spent down it was more of a one-time charge as opposed to a reoccurring charge, which would be smaller.

Councilor Dawes moved to pass Ordinance No. 846-B on second and final reading.

The motion was seconded by Councilor Taylor and carried unanimously.

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5. **Resolution No. 15-2009, First and Final Reading – Surplus of City Property.** City Manager MacReynold reported the resolution would surplus the bulletproof vest of former police officer Neil Hoiium, who would be working in the near future for the City of Centralia. Because the vest was fitted to Officer Hoiium, the administration was asking the council to surplus it. City Manager MacReynold reported the city would receive a certain level of prorated compensation for the vest from the City of Centralia.

Councilor Taylor moved that the council adopt Resolution No. 15-2009 on first and final reading approving the transfer of ownership and sale to the City of Centralia in the amount of \$294.

The motion was seconded by Councilor Pope and carried unanimously.

There being no further business to come before the council, the meeting adjourned a 6:30 p.m.

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Mayor

Attest:

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City Clerk

**SUGGESTED MOTION**

**I move that the council approve the minutes of the regular city council meeting of October 12, 2009.**