

November 23, 2009

The Chehalis city council met in regular session on Monday, November 23, 2009, in the Chehalis city hall. Mayor Ketchum called the meeting to order at 6:00 p.m. with the following council members present: Terry Harris, Dr. Isaac Pope, Daryl Lund, Chad Taylor, and Dennis Dawes. Staff present included: Merlin MacReynold, City Manager; Bill Hillier, City Attorney; Judy Schave, City Clerk; Glenn Schaffer, Police Chief; Kelvin Johnson, Fire Chief; Eva Lindgren, Finance Manager; Peggy Hammer, Human Resources Administrator; Bob Nacht, Community Development Director; Tim Grochowski, Public Works Director; and Patrick Wiltzius, Wastewater Superintendent. Members of the news media in attendance included Marquise Allen of *The Chronicle* and Paul Walker of KITI.

Mayor Ketchum announced Councilor Fuller had submitted a letter of resignation from his position on the city council for the remainder of 2009.

1. **Presentations.** City Manager MacReynold reported at the last council meeting, Councilor Lund pointed out something about Bob Nacht that he thought was very interesting, but true. He presented Mr. Nacht with a "Wizard of Oz" Figure, adding he thought Mr. Nacht should have it in his office in recognition of being the city's Oz. Mr. Nacht stated it would be put in a prominent place in his office.

2. **Continue Public Hearing on Critical Areas Ordinance (CAO) and Associated State Environmental Policy Act (SEPA) Checklist.** Bob Nacht reported there would be some changes to the draft document before it was brought back to the council in its final form. He reported the Washington State Department of Ecology would be submitting a long list of comments on the proposal, which would be presented as part of the whole package at the next council meeting.

Mayor Ketchum closed the regular meeting at 6:04 p.m. and opened the public hearing. There being no citizen comments, Mayor Ketchum closed the public hearing and reopened the regular meeting at 6:05 p.m.

Mr. Nacht stated he would bring the final draft back to the council at the next meeting for action, requesting that it be passed on first reading. He reiterated that it was an extremely important piece of legislation and they had not taken it lightly.

3. **Public Hearing on 2010 Ad Valorem Taxes and Property Tax Levies.** Ms. Lindgren provided the council with a revised agenda report, noting the information in the packet was based on the Emergency Medical Services (EMS) rate at the maximum level. She stated she spoke with the Lewis County Assessor's Office and they indicated the city would be locked into whatever rate they set for the EMS levy for the remaining life of the levy. Ms. Lindgren indicated there had been some consultation on the issue and the city may potentially have the ability to change the rate down the road. She stated the revised report showed the EMS levy at the same rate as last year.

Mayor Ketchum noted over the last 10 years, they had a different assessment each year. He asked, based on the information Ms. Lindgren was providing, if they set the rate at .36 cents per \$1,000 if it would remain that amount for the next six years and not fluctuate. City Manager MacReynold reported the city does not set the rate, it only sets an amount. He added he felt the assessor was encouraging the city to assess it at the highest amount, which would be approximately \$90,000 more than what the city was collecting in 2009. City Manager MacReynold noted based on discussions with the council and the three who went through the budget process, their position was they do not want to do that. He reported after speaking with the city attorney, he directed Ms. Lindgren to leave the amount at the same level as 2009.

Mayor Ketchum indicated part of the reason why they didn't want to take the whole .50 cents was because they told the voters they would be taxing them the same amount.

Councilor Harris asked if the county was doing something different in-house, or if they were basing it on the Washington Administrative Code or the Revised Code of Washington. City Attorney Hillier stated he was not certain, adding his advice was directly contrary to that of the LC Assessor. He reported the ballot measure stated up to .50 cents, and if we choose to make an adjustment next year, and the county tells us we're locked in, we would just ask one of the judges to rule on it. City Attorney Hillier noted he had not seen any case law or statute that would regulate the city to the five-year lock in. He stated the city went for the last ten years with the ability to be flexible, and he would continue to give them the same advice.

Councilor Dawes suggested the assessor's office might be thinking about what the schools do, adding they set the amount they need, and the assessor comes back with the dollar per thousand. He felt the assessor's office was way off

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base, adding the ballot title was very clear in that the voters would give the city authorization to levy up to .50 cents. Councilor Dawes noted he requested that City Manager MacReynold contact Municipal Research on the matter, which he had done. He felt it would be very unusual for them to have to be tied to one amount when the voters approved authorization to levy a tax up to a certain amount. Councilor Dawes hoped they would have an answer in writing, before the second reading of the ordinance.

Mayor Ketchum closed the regular meeting at 6:12 p.m. and opened the public hearing. There being no citizen comments, Mayor Ketchum closed the public hearing and reopened the regular meeting at 6:13 p.m. Mayor Ketchum announced the public hearing would be continued to the council work session on Tuesday, December 1, at 5:05 p.m.

4. **Consent Calendar.** Councilor Dawes moved to approve the consent calendar comprised of the following:
- a. Minutes of the regular meeting of November 9, 2009;
 - b. Claim Vouchers No. 95208-95364 and No. 102009 in the amount of \$363,971.91 dated November 16, 2009;
 - c. Re-appointment of Steve Buzzard as Municipal Court Judge to a new four-year term through 2013; and
 - d. Accept Chamber of Commerce Improvement Project as complete and release retainage bond to Rognlin's, Inc. in the amount of \$225,980.52.

Councilor Taylor seconded the motion.

Mayor Ketchum stated, with reference to the minutes of November 9, part of the consensus of the council under the briefing on accepting credit card payments was, if customers wanted to use credit cards, that was their choice; however, they would be responsible for the fee payment. He requested that statement be added to the minutes of November 9, 2009.

Mayor Ketchum also asked about the Chamber of Commerce improvement project, noting he remembered when they first laid the asphalt down there was a problem with density. He wondered if the issue had been resolved. Tim Grochowski reported it had been resolved, noting there was also a one year warranty on the whole project.

Councilor Dawes inquired about the same roadway, asking about the area where the contractor dug out the road near the railroad bridge. Mr. Grochowski noted they actually grounded some of the old asphalt off of the concrete bridge in order to make a smoother transition.

Mayor Ketchum asked if anything was going to be done to the southbound off-ramp where the road appeared to be pitted. Mr. Grochowski noted it wasn't actually pitted. He indicted it was a tar product rather than asphalt that had dripped off the equipment during the I-5 repaving project, and should wear off in time.

The motion carried unanimously.

5. **Staff Reports.**

a. **October Financial Report.** Ms. Lindgren talked briefly about the general fund, noting the most significant issue was a net loss of \$477,237. She stated the October report did not include property taxes received in November, or reflect the two grant receivables on the Chamber Way project in excess of \$500,000.

Ms. Lindgren reported she spoke with the Lewis County Treasurer's Office earlier that day about the year-to-date collections on taxes, and was informed the city was at 96 percent. She noted the postmark on tax payments can result in a lot of payments being recorded after the end of the month and felt it was important for the council to be aware of the year-to-date totals. Ms Lindgren reported the year-to-date total for general property tax was around \$1,040,000; and the EMS property tax was almost \$198,000.

Councilor Harris indicated the report showed they were about \$900,000 short on sales and use tax. Ms. Lindgren noted they were definitely short in some areas. Councilor Harris asked if the 'Cash for Clunkers' program was included in the

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October report. Ms. Lindgren believed it only reflected one month of the program.

Ms. Lindgren reported there were still some pretty big distortions in the October report because the budget amendment ordinance was not included. She indicated the detail on the ordinance was pretty staggering and there were a lot of items that had to be split out. Ms. Lindgren stated she had a lot of review work to do before they actually book that ordinance.

Councilor Lund stated the downed economy seemed to be affecting everyone, adding the Pepsi distributor in Cowlitz County reported a lot of his customers were saying they only had so much money, and therefore, they had to make the choice of what they want to have, and what they want to run out of.

b. **Status of Parks and Recreation Plan.** Mr. Nacht reported the main reason he was bringing the issue to the council was to get some publicity on the fact that the consultant, Tom Beckwith, would be doing a telephone survey to solicit information from local residents, having to do with what they would like to see from the parks and recreation system in Chehalis. He noted it was the same concept they did for the Renaissance Plan, just for a different purpose.

Mr. Nacht stated the council should have received a copy of the draft plan, which would be revised for final review and adoption at a later date. He noted the council also received a copy of the survey material Beckwith Consulting would be using, which was just for their information. Mr. Nacht reported Beckwith Consulting intended to call a number of local residents and ask them if they would be willing to fill out and participate in the survey process.

Councilor Lund noted a couple of corrections to the draft plan. Mr. Nacht thanked Councilor Lund, adding it was those types of things that were being gone through to make sure they are accurate. He reported some of the concepts in the draft report were also a little dated and would be addressed before they get to the final review. Mr. Nacht reported recreation manager Lilly Wall was actively participating with Centralia parks and recreation on a number of things that needed to be reflected in the report, as well.

c. **Reminder about Budget Work Sessions December 1 and 3, 2009, at 5:00 p.m.** Mayor Ketchum announced the council would be holding two budget work sessions, the first on December 1 and the second on December 3, starting at 5:00 p.m. He inquired as to why Ordinance Nos. 851-B and 852-B were on the December 1 work session for second and final reading, rather than waiting until the first regular meeting in December. City Manager MacReynold stated there was a change at the assessor's office and they requested the city provide them with council action on the levies as early as possible in December.

d. **Vacancy on Lewis County EDC.** Mayor Ketchum reported, with the resignation of Councilman Fuller, he would fill the vacancy on the Lewis County EDC Board until the new appointment was made at the second meeting of January 2010. He noted the other appointments held by Councilman Fuller were already taken care of.

6. **Council Reports.**

a. **Events Attended by the Mayor.** Mayor Ketchum reported he and other council members attended the fundraiser for Andy Sennes last Wednesday evening. He stated they had a large number of people attend, and raised nearly \$19,000.

Mayor Ketchum reported he also attended the Lewis County Relay for Life Kick-off on Wednesday evening, which was well attended. He talked briefly about this year's 'The Purple Toilet, Flush Cancer' fundraiser. Mayor Ketchum explained that if the 'purple toilet' showed up in your yard, you had to pay to have it removed. The fees ranged from \$10 to have it taken away; \$20 to have it given to someone else; or \$30+ to get rid of it and ensure it wouldn't come back. Mayor Ketchum reported it showed up in his yard the very next morning, at which time he paid to have it taken away, and hopefully insured it wouldn't come back.

b. **Chehalis River Basin Partnership Update.** Councilor Harris reported on the Chehalis River Basin Partnership meeting, noting they talked about an interesting program put on by Earth Economics, who was questioning how the United States Army Corps of Engineers (Corps) dealt with the cost benefit analysis on property and property loss. He stated they believed the Corps was ignoring certain parts of what was being benefited through flood and flood damage control, namely the property itself and the value of it. Councilor Harris reported the new program would put dollar amounts on property and other things so that their cost benefit analysis would come out even better; however, it did not give value to wetlands. He noted

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in their review, they determined water retention in the upper parts of the basins was probably the best place to start projects and throw money at. Councilor Harris noted Earth Economics had no agenda; they were simply looking at data. He felt the analysis could end up being a benefit for the project, as far as finding the value. Councilor Taylor felt they were going to run into some huge hurdles.

Councilor Harris reported a representative from Earth Economics would be meeting with individuals in Washington, D.C., to talk about the programs, hoping to get them put through.

7. Ordinance No. 851-B, First Reading – Determining and Fixing the Amounts of Revenue to be Raised by Ad Valorem Taxes During 2010, and Ordinance No. 852-B, First Reading – Stating the Dollar Amounts and Percentages of Change in Property Tax Levies for 2010. City Manager MacReynold noted Ms. Lindgren already walked the council through what they were proposing, and encouraged passage of the two ordinances.

Councilor Dawes thought Ordinance No. 852-B was to include the dollar per thousand for the EMS levy. Ms. Lindgren noted it only addressed the limitation and only had to show how it compared.

Councilor Taylor moved to pass Ordinance Nos. 851-B and 852-B on first reading.

The motion was seconded by Councilor Pope and carried unanimously.

8. Ordinance No. 853-B, First Reading – Establishing New Wastewater Rates for Lewis County Sewer District #4 and the City of Napavine. Patrick Wiltzius reported the rates this year had increased substantially due to a project to remove all the sludge and sewage out of the old wastewater plant. He stated over the last five years the rates had averaged out to an increase of 3.3 percent per year for Napavine, and about 2.2 percent for Lewis County Sewer District #4. Mr. Wiltzius reported he had passed the new rates on to Napavine and to Lewis County Sewer District #4, and to date he had no objections.

Councilor Dawes moved to pass Ordinance No. 853-B on first reading.

The motion was seconded by Councilor Pope and carried unanimously.

9. Resolution No. 17-2009, First and Final Reading – Adopting Policy on Non-Discrimination in Recreation Programs and Facilities. Mr. Nacht reported the state legislature indicated through Engrossed Substitute Senate Bill 5967 that municipal governments had to have a policy promoting non-discrimination on the basis of gender. He noted the city already had a number of policies on the books regarding non-discrimination.

Mr. Nacht reported the bill also required the city address the use of municipal facilities by third-party users, to make sure they were not discriminating on the basis of gender either. He stated Ms. Wall was identifying specific criteria and actions the city would have to take, adding they had to have the policy in place by January 1, 2010.

Councilor Taylor noted there were some select teams that do discriminate based on the ability of the athlete, and wondered if they would still have the ability and right to use city facilities. Mr. Nacht noted the resolution addressed discrimination on the basis of gender only, adding they had to provide equal opportunity for athletic programs. He noted the legislation was pretty new and other cities were having some issues on exactly how to implement it.

Councilor Dawes asked if the city fell under the jurisdiction of Title 9, as far as athletic events. City Attorney Hillier stated he didn't know; however, the city had never had a direct challenge on that basis.

Councilor Harris asked if the city knew what instigated the bill, and what it really pertained to. Mr. Nacht reported the city just received word that the legislature passed the bill and the city had to comply.

Councilor Harris noted the city had adult programs that paid fees and supplied insurance in order to play, and wondered if they were going to be required to allow people of other genders to play in those leagues. Mr. Nacht stated he couldn't answer that question; however, conceptually, he thought that was what they were getting at. He reported the city had provisions for equal access, such as, if they had a women's league they had to have a men's league.

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Councilor Harris wondered if the city would be leaving itself open if they agreed to it and later had an issue come up.

Mayor Ketchum felt it was more that if they had a boy's team and a girl wanted to play on it, they had to allow the girl to play.

City Attorney Hillier noted the practical origin was that in the larger counties and cities they were struggling with the fact that men's softball leagues were monopolizing all the fields, and the women's teams could not get on them. He stated what the city was doing was offering facilities of equal time and equal basis based on the number of teams available, which would meet the criteria.

City Manager MacReynold felt if they didn't adopt the resolution the city might be under the microscope; however, passage would ensure that we are seeking to comply with state regulations.

Councilor Dawes felt they were making more out of it than what it really was, noting the purpose was to provide equal access to public community athletic programs and sports facilities by prohibiting discrimination on the basis of gender.

Councilor Dawes moved to adopt Resolution No. 17-2009 on first and final reading.

The motion was seconded by Councilor Pope and carried unanimously.

There being no further business to come before the council, the meeting adjourned a 6:47 p.m.

Mayor

Attest:

City Clerk

SUGGESTED MOTION

I move that the council approve the minutes of the regular city council meeting of November 23, 2009.