

PLEASE NOTE SPECIAL MEETING TIME

CHEHALIS CITY COUNCIL AGENDA
CITY HALL
350 N MARKET BOULEVARD, CHEHALIS, WA 98532

Anthony E. Ketchum Sr., District 3 Mayor		
Terry F. Harris, District 1		Dennis Dawes, Position at Large, Mayor Pro Tem
Daryl J. Lund, District 2		Chad E. Taylor, Position at Large
Dr. Isaac S. Pope, District 4		Bob Spahr, Position at Large

September 12, 2011

5:15 p.m.

EXECUTIVE SESSION		
1. <u>Executive Session Pursuant to RCW 42.30.110(1)(i) – Potential Litigation.</u> (City Manager)	---	

5:30 p.m.

WORK SESSION		
2. <u>Review Event Policy Proposal.</u> (Police Chief)	---	1

Regular Meeting of September 12, 2011

6:00 p.m.

ITEM	ADMINISTRATION RECOMMENDATION	PAGE
3. <u>Call to Order.</u> (Mayor)		
4. <u>Pledge of Allegiance.</u> (Mayor)		

CITIZENS BUSINESS

This is an opportunity for members of the audience to address the council on matters not listed elsewhere on the agenda. Speaker identification forms are available at the door and may be given to the city clerk prior to the beginning of the meeting.

SPECIAL BUSINESS

5. Report from the Chehalis Foundation on Pool Funding. (Mike Austin, Foundation Chair)

CONSENT CALENDAR

- | | | |
|---|---------|----|
| 6. <u>Minutes of the Regular Meeting of August 22, 2011.</u> (City Clerk) | APPROVE | 8 |
| 7. <u>Vouchers and Transfers.</u> (Finance Manager) | APPROVE | 11 |

STAFF AND CITY COUNCIL REPORTS

- | | | |
|--|------------------|--|
| 8. <u>Administration Reports.</u> | | |
| 9. <u>Council Reports.</u> | | |
| a. Councilor reports. (City Council) | INFORMATION ONLY | |
| b. Council committee reports. (City Council) | INFORMATION ONLY | |

NEW BUSINESS

- | | | |
|---|-------|----|
| 10. <u>Ordinance No. 877-B, First Reading – Placing a Moratorium on Receipt of Applications for Development of Community Medical Marijuana Gardens in the City of Chehalis.</u> (City Attorney, Police Chief) | PASS | 13 |
| 11. <u>Resolution No. 14-2011, First and Final Reading – Surplus of City Property.</u> (City Clerk, Public Works Director) | ADOPT | 18 |

THE CITY COUNCIL MAY ADD AND TAKE ACTION ON
OTHER ITEMS NOT LISTED ON THIS AGENDA

NEXT REGULAR CITY COUNCIL MEETING WILL BE ON MONDAY, SEPTEMBER 26, 2011

Work Session - Monday, September 12, 2011.

Policy for use of city streets, rights-of-way, and parks for public or private events.

The City of Chehalis recognizes that the use of city streets, city parks, and right of ways for short term special events such as festivals, displays, parades, dances, concerts, and public or private gatherings, and other such events can be positive for businesses and the community. It is also understood that these types of events take a considerable amount of planning, can have a significant impact on available resources and emergency services, and sometimes are met with objections from neighboring residents and businesses. With this in mind, permits and conditions for such events will be considered using the following procedures:

Any organization, business, corporation, or individual seeking to obtain a short term right of way use permit for a special event that occurs on a public street or alley, or an administrative permit for use of a city park outside of a rental building, must complete and submit an event permit application to the city's Community Development Department at least 28 days prior to the date of the special event.

Event permit applications for use of public parks must be made to and approved by the city's Recreation Department; however, any impact to the rights-of-way occasioned by the use of the parks may also require a right-of-way permit.

Short term right of way and event permit applications, once submitted, will be reviewed by each affected city department through the developmental review committee (DRC) which meets weekly.

Primary traffic routes through the city such as Market Blvd, Chehalis Ave., State St., Main St., and National Ave., as well as primary traffic routes around the core downtown business area will only be considered for closure when the event is organized by a recognized community organization, and the event serves a broader community purpose. For example, the summer festival organized by the Chehalis Business Association, and the holiday parade organized by the Chamber of Commerce. Permits for these events will be considered under the following circumstances:

- There must be a suitable alternative route determined by the city, available for traffic flowing through the city, and an alternative route for emergency services to access the affected areas.
- The event must not conflict or interfere with other events. If two or more events conflict, priority will be determined at the next DRC meeting.
- Consideration will be given to the impact the planned event has on surrounding residents, businesses, and services. Appropriate mitigation may be required.

Side streets and those not critical to traffic flow throughout the city may be used for special events by organizations and businesses following the conditions outlined above, with the additional conditions of:

- Only one permit will be issued per year, per individual, business, and/or organization.
- The street closure must last no longer than five hours in duration, and must occur between the hours of 8am and 10pm. Exceptions may be made by the DRC if an identified benefit to the city can be achieved by allowing alternate timelines.

Events with Alcohol

- Proper permits must be obtained by the Washington Liquor Control Board
- Proof of liability insurance must be submitted with the application form.
- No beverages may be served in glass containers.
- The event holder must have age verification and approved security measures in place.
- Alcohol sales must stop at least 30 minutes prior to the close of the event.
- A site plan will be required with the application, and must show how the general public will be precluded from the area proposed for alcohol use.

Events with Live or Amplified Entertainment

- Any event permit application that is requesting a variance to both Municipal and State Noise Ordinances may be issued with restrictions relating to the limits set forth in those ordinances. Further restrictions may be included regarding the time frames in which the amplified music or entertainment will be allowed.

In all cases, prior to approving any application, the DRC will take into consideration:

- The availability of city resources necessary to manage the anticipated impact to the public areas affected by the event.
- The access and maneuverability of traffic and emergency vehicles within, and around the event.
- The impact to affected residents, businesses, and services.

The city may deny the original request as filed, but may provide alternatives to the proposal that would be acceptable if submitted. The denial and alternative suggestions will be forwarded to the applicant as soon as the DRC makes a determination on the application. The applicant may choose to modify and resubmit the proposal prior to the next DRC meeting for reconsideration.

City of Chehalis
Community Development Dept.
1321 S Market Blvd.
Chehalis, WA 98532
(360) 345-2229
Fax (360) 345-1039
Email: comdev@ci.chehalis.wa.us

Event Permit Application Cover Sheet

The application and all required attachments must be submitted to the Community Development Department at least **28 days prior** to the event for review and approval. If approved, it is valid for the duration of the event only. Please do not submit the application until all of the required items have been completed & attached.

Applicant Name: _____ Phone # _____

Address: _____

Contact Person On Site during event: _____ Cell # _____

Type of Event (circle one):

Run/Walk

Bike Tour

Parade

Street Fair

Music / Amplified Entertainment

Fundraiser

Community/Farmer's Market

Other: _____

Event Title: _____

Event Date(s): _____

Event Hours: Start time: _____ AM / PM End time: _____ AM / PM

Set up/assembly begins: _____ AM / PM Clean up completed by: _____ AM / PM

Will alcohol be served at this event? Yes No

Anticipated number of attendees: _____

What is the power source for the event? (if needed): _____

Attached to your application must be a complete and detailed narrative of the event including all activities and services. The narrative must include the following, if applicable:

Please provide complete and specific details on any proposed setup / assembly work (barricades, fences, stages, etc.) The narrative must also include details on the proposed maintenance during, and clean up procedures after, the event to ensure the streets and sidewalks are clear of debris.

List any street(s) and parking lot(s) closures requested for this event. Include street name(s), block(s) affected, time of closing and time of re-opening.

If food service is proposed, the narrative must include information on how the food is prepared, served, and the clean up procedures. If gas or propane use is proposed include information on the size and number of tanks to be used. **Approval from the Lewis County Health Department is required. Please contact them directly at 360-740-1222.**

If your event involves the sale or service of alcohol, a liquor license must be obtained from the Washington State Liquor Control Board. Please contact them directly at 360-664-1600. Your narrative must include additional information pertaining to the security plan. The security plan must include: the number and location of security personnel on site, procedures for checking ID and preventing underage access, crowd control methods, height and type of security fencing, etc.

If your event is to be held in a City park, it is your responsibility to contact the Recreation Division of the Community Development Department, at 360-748-0271. Special rules, regulations and restrictions may apply. Most park areas cannot be reserved for the exclusive use of one group and access to the area by the general public must be available at all times.

Complete the following checklist and attach any additional information requirements.

Event Permit Checklist

The submitted application must include the following:

- A complete Event Permit Application cover sheet.
- A narrative of the purpose for/description of the event.
- A detailed, dimensioned site plan and complete layout of the event.
- A copy of liability insurance in the amount of \$1,000,000 naming the City of Chehalis as an additional insured, if the event impacts city owned property or rights-of-way.
- A copy of distributed information to impacted properties & a list of recipients.*
- Any additional information (site plan, maps, etc.) See page 3 for requirements.

* It is your responsibility to distribute information and contact impacted property and/or business owners. It would be helpful to attach signatures of impacted owner's in support of your event. With your application, include a copy of the distributed information and a list of recipients.

Additional Information for Moving Routes

When planning an event that includes a moving route (i.e.: parade, etc.), the Police Chief and Public Works Director may be available to assist you in planning your route. Consider the following when planning your route:

- Emergency access routes for fire, police and/or paramedic vehicles
- Conflict with public transportation routes
- Conflict with adjacent businesses
- Parking and traffic congestion

Your application must include a traffic control plan when the event moves through controlled intersections. The Police Dept. will not provide personnel to aide in traffic control. Your traffic control plan must detail the procedures, personnel, equipment, signage, etc. to be utilized for traffic control.

You must develop and attach a route map that includes all of the following:

- Location of proposed street closures
- Barricades, signage and fencing locations
- Temporary structure(s) locations
- Event parking, staging areas, etc.
- Detour traffic routes

Additional Information for Farmer's Markets, Street Fairs, Live Amplified Entertainment, etc.

Event organizers must be certain that all event activities comply with the local laws applicable to noise abatement. Please refer to the Chehalis Municipal Code for applicable noise regulations.

You must develop and attach a site plan that includes all of the following:

- Property lines
- Location of all existing buildings
- Location of all proposed tents, food service, stages, equipment, sanitation facilities, tables, etc.
- Distances between proposed structures and existing buildings, streets, sidewalks, property lines, etc.
- Emergency exit routes

Permit # _____

Parcel # _____

August 22, 2011

The Chehalis city council met in regular session on Monday, August 22, 2011, in the Chehalis city hall. Mayor Pro-tem Dawes called the meeting to order at 5:33 p.m. with the following council members present: Dr. Isaac Pope, Bob Spahr, Daryl Lund, and Chad Taylor. Mayor Ketchum and Councilor Harris were absent (excused). Staff present included: Merlin MacReynold, City Manager; Bill Hillier, City Attorney; Judy Schave, City Clerk; Glenn Schaffer, Police Chief; Peggy Hammer, Human Resources Administrator; and Bob Nacht, Community Development Director.

1. **Executive Session.** Mayor Pro-tem Dawes announced the council would be in executive session pursuant to RCW 42.30.140(4)(a) – collective bargaining, and RCW 42.30.110(1)(i) – potential litigation for approximately 30 minutes and there would be no decision following conclusion of the executive session.

Mayor Pro-tem Dawes closed the executive session at 6:03 p.m. and announced the council would take a three minute recess before opening the regular meeting at 6:06 p.m. Additional staff included: Kelvin Johnson, Fire Chief; Herta Fairbanks, Public Works Director; and Patrick Wiltzius, Wastewater Superintendent. Members of the media included Lee Hughes from *The Chronicle*.

2. **Report on the Steam Train.** Bill Thompson, President of the Chehalis-Centralia Railroad and Museum, reported they were running mostly to capacity every-weekend due to the Groupon sales that their marketing people put out. He stated financially they were sound and only getting sounder. Mr. Thompson noted there were some rumors floating around concerning the city's locomotive (Engine #15), that it was being neglected and they were spending all of their money on the locomotive (Engine #25) that was donated to them from the City of Centralia. He reported that was not true, adding they hadn't spent anything on Engine #25 except for a whole case of W-D 40. Mr. Thompson reported they wanted to make it clear that Engine #15 was in pristine condition. He noted it ran as smooth as silk and he would put it up against any engine that runs through here. He stated if there were anymore rumors or if anyone hears of any rumors they would like to know about it right away, rather than hearing about it on the street.

Mr. Thompson reported Engine #15 had eleven years on it and four more to go before they would need to rebuild it. He stated they were looking between \$125,000 and \$150,000 on the rebuild, which they would foot the bill for. Mayor Pro-tem Dawes asked if the rebuild of Engine #15 would be done during the off season, so it doesn't miss a year. Mr. Thompson indicated it would be.

Councilor Spahr asked what their intention was with reference to Engine #25. Mr. Thompson reported they work on it during the winter months, noting during the summer they're just too busy keeping up with business. He stated he would be surprised if Engine #25 was done in four year's time. Mr. Thompson reported it was their intention to get it running, noting it was one of the three engines that worked on the railroad back in the day. He indicated Engine #20 was scrapped, #15 went to Chehalis, and #25 went to Centralia.

Mr. Thompson reported they recently put on a barbeque and train ride for 250 people from the National Railroad Historical Society. He noted every state was represented with the exception of one, and they also had two people from Japan in the group.

Councilor Spahr reported he had heard that the Railroad Association was kind of a closed group and wondered how many people were involved, and if someone was interested, how could they become involved. Mr. Thompson stated it wasn't a closed group, adding they had members from all over. He suggested they bring their gloves and work clothes and come on out, noting they hold two work parties per month and would take anybody willing to help out.

3. **Presentation of Proclamation.** Mayor Pro-tem Dawes presented Marett Berg with a proclamation declaring September 17, 2011, as "Health and Wellness Day" in the city of Chehalis.

4. **Consent Calendar.** Councilor Spahr moved to approve the consent calendar comprised of the following:

a. Minutes of the regular meeting of August 8, 2011; and

b. Claim Vouchers No. 72011 and 100725-100864 in the amount of \$182,417.16 dated August 15, 2011.

August 22, 2011

The motion was seconded by Councilor Lund and carried unanimously.

5. **Administration Reports.**

a. **July Financial Report.** City Manager MacReynold briefly reported on the financials for the various funds. He reported the general fund was doing relatively okay with regards to revenues, noting they were a little bit under the projected amounts that were built into the budget. City Manager MacReynold indicated the departments continued to do an exceptional job of staying within their budgets, with the exception of a couple that are dealing with issues that are driving costs up.

City Manager MacReynold reported the wastewater fund revenues and expenditures were doing pretty well, noting the department continued to under spend their budget, and were a little bit above with regard to fees.

City Manager MacReynold reported the water fund was coming in under the projected revenues, but felt the fund was still doing relatively well. He noted they were significantly under in expenditures.

City Manager MacReynold noted the stormwater fund had always been a challenge with reference to the fees being charged, but it was doing okay. He noted they were also greatly under in expenditures.

b. **Presentation of the Infiltration/Inflow Strategic Plan.** Herta Fairbanks reported the city, as well as many other cities, suffers from inflow and infiltration (I&I), which amounts to surface water getting into the sewer system from various means. She noted it causes a number of problems at the treatment plant by diluting the flows and strengths of the sewer, which causes staff to be reactive to try and figure out how to treat it properly, so that the end result meets our permitting purposes.

Ms. Fairbanks reported the study basically took a look at the city's I&I and prioritized areas within the city that will provide the highest reductions in I&I, in the most cost effective manner. She noted they took a look at it from a ten year perspective and found ten projects somewhere around the \$1 million per year range. The reason they went with the \$1 million per year was to make it a large enough project to where they could pursue outside funding from agencies, such as the Department of Ecology, the Public Works Trust Fund, or USDA.

Ms. Fairbanks indicated the report was completed in 2010. She talked briefly about the table listed in the agenda report that provided the following information: a list of prioritized basins; which of the replacement methods was recommended; and a cost estimate for each of the projects.

Ms. Fairbanks stated the report was for informational purposes, and a chance for the council to ask questions.

Councilor Spahr noted, several years ago, the Department of Ecology (DOE) graciously came down and agreed to look at our plan because nobody had really done one. He felt the city established a program where over 20 years they were going to completely redo the city; however, DOE wanted it done in four years. Councilor Spahr asked if the 10-year program would pass muster with DOE. Ms. Fairbanks reported there was no requirement at this time for the city to do I&I, adding they were just trying to take a pro-active approach. She noted, in the course of history, the new wastewater plant helped a lot in terms of being able to address I&I issues because the city has excess capacity that allows enough room to treat all of the I&I that we are currently receiving and then some.

Councilor Pope asked if the separation project they did several years ago was ever completed, and if so, how much did that help. Patrick Wiltzius noted they did a bunch of those projects back in the 1980s and some in the early 1990s.

Mr. Wiltzius reported the Environmental Protection Agency (EPA) was going over DOE's head and auditing various cities and their collection programs to see how they are maintaining their sewer systems. He noted they've already hit Seattle and some other bigger cities. Mr. Wiltzius indicated we were not on their radar yet, and a good part of the plan was to be ready for when they come knocking on our door. He noted he was also working on a collection system management plan.

6. **Council Reports.**

a. **Update from Councilor Pope.** Councilor Pope asked Bob Nacht to update the council on the recent Chehalis

August 22, 2011

Foundation meeting. Mr. Nacht reported the community development staff met with the Foundation and discussed the possibility of the Foundation supporting, through funding, a renovation of the outdoor swimming pool. He noted the Foundation did commit to match dollar-for-dollar up to \$100,000 of their funding to the community for a specific renovation program for the outdoor pool. Mr. Nacht stated the Foundation was in the process of putting the financing package together and would be doing a presentation to the council on exactly what it was all about. He noted the city was also putting together the technical package on how it's to be accomplished. Mr. Nacht thanked the Foundation for their generous commitment to the city.

b. **Update from Councilor Spahr.** Councilor Spahr reported he attended an Economic Development Committee Board meeting, but there was nothing in particular to report. He also attended the North Lewis County Regional Fire Authority (NLCRFA) Planning Committee meeting and encouraged the public to go to the website to find out more information.

Councilor Spahr reported he, as well as Mayor Pro-tem Dawes and Councilor Lund, attended the opening ceremony of the SW Washington Fair.

c. **Update from Councilor Taylor.** Councilor Taylor updated the council on the hiring process for the new Twin Transit director. He thanked City Manager MacReynold for allowing Peggy Hammer to take his place on the panel while he was on vacation. Councilor Taylor reported they narrowed the field of applicants down to ten and they planned to do some conference call interviews to narrow the field down even further. He hoped Ms. Hammer would be allowed to continue in the process until it was done, adding her experience was very helpful and appreciated.

d. **Update from Mayor Pro-tem Dawes.** Mayor Pro-tem Dawes reported he attended the opening ceremony of the SW Washington Fair along with Councilors Spahr and Lund, and worked a stint in the Lewis County Historical Museum fair booth. He echoed what Councilor Spahr stated about checking the NLCRFA website because if something comes to fruition it's the people that will make the ultimate decision.

7. **Chehalis-Centralia Airport FAA Grant Offer.** Airport Manager Allyn Roe reported every year they were eligible for approximately \$150,000 in airport improvement program funds from the FAA, which is funded by a charge assessed to every commercial airline ticket. He indicated, with the rollover from last year, they requested to use the funds for the following projects: purchase of new snow removal equipment; repairs to the weather equipment; new fencing on the south end of the airport; and paint for part of the runway project.

Mr. Roe reported before the council was a grant offer from the FAA, adding the city along with Lewis County, as sponsors of the airport, were the ones that need to sign and approve it.

Councilor Spahr moved to authorize the airport, on the city's behalf, to enter into an agreement for the FAA grant offer in the amount of \$170,000.

The motion was seconded by Councilor Taylor and carried unanimously.

There being no further business to come before the council, the meeting adjourned at 6:37 p.m.

Mayor



Attest:

City Clerk

SUGGESTED MOTION

I move that the council approve the minutes of the regular city council meeting of August 22, 2011.

CITY OF CHEHALIS
AGENDA REPORT

DATE: August 31, 2011
TO: The Honorable Mayor and City Council
FROM: Eva Lindgren, Finance Manager 
PREPARED BY: Michelle White, Accounting Tech II 
SUBJECT: Vouchers and Transfers

ISSUE

Council approval is requested of the following financial transactions:

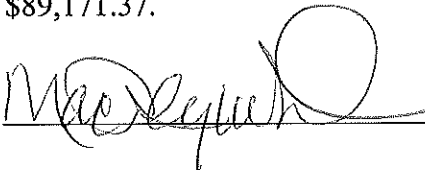
1. Claim Vouchers 100865 through 100988 in the amount of \$89,171.37 dated August 31, 2011 and the transfer of \$59,056.41 from the General Fund, \$2,595.02 from the Tourism Fund, \$698.32 from the Garbage Fund, \$17,982.21 from the Wastewater Fund, \$6,989.87 from the Water Fund, \$432.40 from the Storm & Surface Water Utility Fund, and \$1,417.14 from the Firemen's Pension Fund.

RECOMMENDATION/COUNCIL ACTION DESIRED



The administration recommends that the council approve the August 31, 2011 Claim Voucher Nos. 100865 through 100988 in the amount of \$89,171.37.

SUGGESTED MOTION

I move to approve the August 31, 2011 Claim Vouchers No. 100865 through 100988 in the amount of \$89,171.37.

Reviewed by:  _____, City Manager

CITY OF CHEHALIS
AGENDA REPORT

DATE: August 31, 2011
TO: The Honorable Mayor and City Council
FROM: Eva Lindgren, Finance Manager 
PREPARED BY: Michelle White, Accounting Tech II 
SUBJECT: Payroll Vouchers and Transfers

ISSUE

Council approval is requested of the following financial transactions:

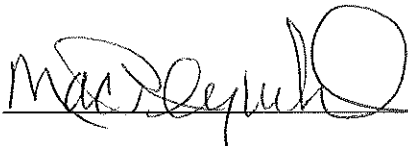
1. Payroll Vouchers No. 34964 through 35055, Direct Deposit Payroll Vouchers No. 2513 through 2584, and Electronic Federal Tax Payment No. 102 in the amount of \$726,660.49 dated August 31, 2011, and the transfer of \$519,015.04 from the General Fund, \$23,691.58 from the Arterial Street Fund, \$16,150.54 from the Gambling Enforcement Fund, \$621.70 from the Garbage Fund, \$73,449.47 from the Wastewater Fund, \$74,783.94 from the Water Fund, \$13,917.32 from the Storm & Surface Water Utility Fund, and \$5,030.90 from the Firemen's Pension Fund.

RECOMMENDATION/COUNCIL ACTION DESIRED

The administration recommends that the council approve the August 31, 2011, Payroll Vouchers No. 34964 through 35055, Direct Deposit Payroll Vouchers No. 2513 through 2584, and Electronic Federal Tax Payment No. 102 in the amount of \$726,660.49.

SUGGESTED MOTION

I move to approve the August 31, 2011, Payroll Vouchers No. 34964 through 35055, Direct Deposit Payroll Vouchers No. 2513 through 2584, and Electronic Federal Tax Payment No. 102 in the amount of \$726,660.49.

Reviewed by:  , City Manager

CITY OF CHEHALIS

AGENDA REPORT

DATE: September 7, 2011
TO: The Honorable Mayor and City Council
FROM: William T. Hillier, City Attorney
SUBJECT: Immediate Adoption of Ordinance No. 877-B

ISSUE

Attached for your consideration is a proposed ordinance adopting a six-month moratorium on the establishment, location, operation, licensing, permitting, maintenance, or continuation of medical marijuana collective gardens or medical marijuana dispensaries.

DISCUSSION

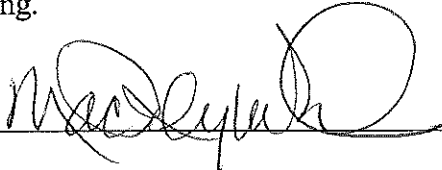
Per request, the administration is proposing the attached Ordinance No. 877-B as a six-month moratorium for the establishment of any marijuana dispensaries or marijuana collective gardens within the city limits. This will allow the state legislature to amend the existing laws to make certain state law becomes consistent with federal law currently in effect.

RECOMMENDATION/COUNCIL ACTION DESIRED

It is recommended that the council suspend its rules, declare an emergency, and adopt this proposed ordinance on first and final reading.

SUGGESTED MOTION

I move that the council declare an emergency and adopt proposed Ordinance No. 877-B on first and final reading.

Reviewed by:  _____, City Manager

ORDINANCE NO. 877-B

AN ORDINANCE OF THE CITY OF CHEHALIS, WASHINGTON, ADOPTING AN IMMEDIATE SIX-MONTH MORATORIUM ON THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING, PERMITTING, MAINTENANCE, OR CONTINUATION OF MEDICAL MARIJUANA COLLECTIVE GARDENS OR MEDICAL MARIJUANA DISPENSARIES THAT ARE ASSERTED TO BE AUTHORIZED, OR ACTUALLY AUTHORIZED, UNDER CHAPTER 69.51A REVISED CODE OF WASHINGTON (RCW), OR ANY OTHER LAWS OF THE STATE OF WASHINGTON; DECLARING AN EMERGENCY IN THE PASSAGE OF THIS ORDINANCE PROVIDING THAT THE MORATORIUM WILL TAKE EFFECTIVE IMMEDIATELY UPON ADOPTION AND PUBLICATION AND, UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF THE DATE OF ADOPTION.

WHEREAS, the city of Chehalis acknowledges the needs of persons suffering from debilitating or terminal conditions and the benefits that approved medical use of marijuana may provide these persons and believes that the medical use of cannabis should be conducted in a safe and fair manner for the health, safety, and welfare of the community; and

WHEREAS, the possession or distribution of marijuana has been, and continues to be, a violation of state law pursuant to Chapter 69.50 RCW (Washington's Uniform Controlled Substances Act) and federal law, through the Controlled Substances Act ("CSA"); and strict sentencing guidelines enhance the penalties for violations within 1,000 feet of a school; and

WHEREAS, Initiative Measure No. 692, approved by 59% of the voters of Washington State on November 3, 1998, now codified as Chapter 69.51A RCW, created an affirmative defense to marijuana charges under state, but not federal, law, if the person charged could demonstrate that he or she was a qualifying patient or designated provider, as those terms are defined in Chapter 69.51A RCW; and

WHEREAS, the Initiative and current Chapter 69.51A RCW are clear that nothing in its provisions is to be "construed to supersede Washington State law prohibiting the acquisition, possession, manufacture, sale, or use of Cannabis for non-medical purposes;" and

WHEREAS, the Washington State Department of Health opines that it is "not legal to buy or sell" medical marijuana, and further opines that "the law (Chapter 69.51.A RCW) does not allow dispensaries", leaving enforcement to local officials; and

WHEREAS, the city acknowledges the right of qualified health care professionals to recommend the medical use of cannabis, acknowledges the affirmative defense, under state law, available to qualifying patients from the possession of cannabis, as well as the right of patients to

designate a "designated provider" who can "provide" rather than sell cannabis to "only one patient at any one time;" and

WHEREAS, the city of Chehalis acknowledges federal prohibition but wants to respond to the changes in state law in a responsible manner that will minimize impacts on patients, providers, and the health, safety, and welfare of the community; and

WHEREAS, in 2011 the state legislature passed significant amendments to the law, Engrossed Second Substitute Senate Bill 5073 ("E2SSB 5073") and the Governor signed E2SSB 5073, but vetoed several portions expressing her reservations about provisions that involved state employees in activities that could be interpreted as being in violation of federal laws; and

WHEREAS, prior to issuing her partial veto, the Governor received a letter signed by Washington's top two U. S. Attorneys, Mike Armsby and Jenny Durkin, dated April 14, 2011, in which they wrote that marijuana is a Schedule 1 controlled substance under federal law and as such, "growing, distributing and possessing marijuana in any capacity, other than as a part of a federal authorized research program, is a violation of federal law regardless of state laws permitting such activities." Further, the U. S. Attorneys concluded, "state employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability under the CSA;" and

WHEREAS, E2SSB 5073 became effective on July 22, 2011; and

WHEREAS, Section 404 of E2SSB 5073 effectively eliminates medical marijuana dispensaries as a legally viable model of operation under state law; and

WHEREAS, these businesses are illegal under both state and federal law; and

WHEREAS, E2SSB 5073 amends Chapter 69.51A RCW, changing the scope and effect of the law and the rights of qualifying patients and their designated providers, and operators of medical dispensaries are already interpreting the newly amended law to assert that they are permitted to continue to operate; and

WHEREAS, the recent amendments authorize "collective gardens" where up to ten qualifying patients may join together to produce, process, transport, and deliver up to 45 marijuana or cannabis plants for their own medical use, and there is no limit set to the number of medical marijuana collective gardens that may be located at any site or any restrictions as to where collective gardens may be located in relation to other uses; and

WHEREAS, the recent amendments clearly delegate to cities the authority to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes on the production, processing, dispensing, and delivery of medical cannabis; and

WHEREAS, the Chehalis Municipal Code does not currently address medical cannabis or medical marijuana, and the Municipal Code could be changed to address ambiguities in the state law; and

WHEREAS, the city requires time to conduct appropriate research to understand the extent of the changes provided in the new law, to analyze impacts and potential liabilities under federal law, and to determine the appropriate regulatory framework for any provision that is allowed under these laws; and

WHEREAS, the council finds that a zoning, licensing, and permitting moratorium should be established pending local review of appropriate locations and other requirements for these operations, facilities, and uses and the impacts of the newly amended law and its interaction with federal law; and

WHEREAS, unless a moratorium is imposed, medical marijuana dispensaries and medical marijuana collective gardens may be located within the city of Chehalis while the city lacks the necessary tools to ensure the location is appropriate and that the potential secondary impacts are minimized and mitigated; and

WHEREAS, pursuant to RCW 35.63.200 and RCW 36.70A.390, the city may adopt an immediate moratorium for a period of up to six months, provided that the city holds a public hearing on and adopts findings of fact related to the proposed moratorium within 60 days after its adoption; now, therefore,

**THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

Section 1. The Recitals above are hereby adopted by reference as the City Council's preliminary findings of fact, as if fully set forth herein. The City Council may, in its discretion, modify and/or adopt additional findings at the conclusion of the public hearing referenced below.

Section 2. Pursuant to Washington law, a moratorium is hereby enacted to prohibit within the city of Chehalis the establishment, location, operation, licensing, permitting, maintenance, or continuation of any medical marijuana collective garden or any medical marijuana dispensary, whether for profit or not for profit, asserted to be authorized or whether actually authorized under those portions of E2SSB 5073 signed into law, or any other laws of the state of Washington. No building permit, occupancy permit, or other development permit or approval shall be issued for any of the purposes or activities listed above, and no business license shall be granted or accepted while this moratorium is in effect. Any land use permits, business licenses, or the permits for any of these operations that are issued as a result of error or by use of vague or deceptive descriptions during the moratorium are null and void and without legal force and effect.

Section 3. The City Council deems it to be in the public interest to establish an emergency moratorium pending consideration of changes to regulations, requirements, and taxes

to address medical marijuana collective gardens and dispensaries in order to preserve the public health, safety, and welfare.

Section 4. No use that constitutes or purports to be a medical marijuana dispensary or a medical marijuana collective garden that was engaged in dispensing prior to the enactment of this ordinance shall be deemed to have been a legally established use under the provisions of the Chehalis Municipal Code, and that use shall not be entitled to claim legal nonconforming status.

Section 5. The City Council hereby agrees to hold a public hearing on the _____ day of _____, 2011, to develop findings of fact, including the need for and duration of the moratorium.

Section 6. This ordinance shall be transmitted to the Washington State Department of Commerce, pursuant to RCW 36.70A.106.

Section 7. The City Manager is hereby authorized to review and develop appropriate business licensing requirements, health and safety requirements, and business taxes regarding medical marijuana collective gardens or medical marijuana dispensaries pursuant to the newly amended law for inclusion in the Chehalis Municipal Code.

Section 8. The City Manager is hereby directed to administer the city's enforcement responsibilities under city, state, and federal law during the moratorium period in a manner that will continue to preserve legal access to medical cannabis for qualifying patients.

Section 9. Notice of and hearing on this ordinance, in the normal course, would undermine effective city planning by allowing the establishment of or the submittal of permit applications between the time notice was published and the time the ordinance was passed, to vest to city regulations which may be inadequate to protect the public health, safety, and general welfare. Therefore, for this reason, the City Council hereby finds and declares that an emergency exists and that the 180-day interim moratorium imposed by this ordinance shall become effective immediately upon passage of this ordinance and its publication, unless repealed, extended, or modified by the City Council after subsequent public hearings and entry of appropriate findings of fact. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the Recitals above, all of which are adopted by reference as findings of fact, as if fully set forth herein.

Section 10. If any one or more section, subsection, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, subsections, sentences, clauses, or phrases of this ordinance, and the same shall remain in full force and effect.

PASSED by the City Council of the city of Chehalis, Washington, and **APPROVED** by its Mayor, at a regularly scheduled open public meeting thereof this _____ day of _____, 2011.

Mayor

Attest:

City Clerk

Approved as to form and for content:

City Attorney

**CITY OF CHEHALIS
AGENDA REPORT**

Date: September 7, 2011
To: The Honorable Mayor and City Council
From: Judy Schave, City Clerk
Subject: Resolution No. 14-2011- Surplus Property

ISSUE

The public works department has certain property that is no longer of use to the city. State law requires that property must first be declared surplus by the city council before being, leased, sold or otherwise disposed of.

DISCUSSION

A resolution has been prepared for the council's consideration to surplus one (1) Libby 60kW generator, Model No. LDN60A. The generator is a 1971 diesel generator that was purchased from military surplus for \$2,000. The generator is not running and at this point it retains no value as the repair costs to get it back into operable condition would outweigh the benefit to the City.

RECOMMENDATION/COUNCIL ACTION DESIRED

The administration recommends that the council adopt Resolution No. 14-2011 on first and final reading.

SUGGESTED MOTIONS

I move that the council adopt Resolution No. 14-2011 on first and final reading.

REVIEWED BY: , City Manager

RESOLUTION NO. 14-2011

A RESOLUTION OF THE CITY OF CHEHALIS, WASHINGTON, DECLARING PERSONAL PROPERTY OF THE CITY OF CHEHALIS TO BE SURPLUS AND OF NO FURTHER USE TO THE CITY, AND DIRECTING THE SALE AND DISPOSITION THEREOF.

THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO RESOLVE AS FOLLOWS:

Section 1. The following described personal property of the city of Chehalis, Washington, a municipal corporation, shall be, and the same hereby is, declared to be surplus and no longer of necessary use.

1. One (1) Libby 60kW Generator, Model No. LDN60A

Section 2. The personal property described herein in shall be disposed of by the City Manager.

ADOPTED by the City Council of the city of Chehalis, Washington, and **APPROVED** by its Mayor, at a regularly scheduled open public meeting thereof this 12th day of September, 2011.

Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney