

July 22, 2019

The Chehalis city council met in regular session on Monday, July 22, 2019, in the Chehalis city hall. Mayor Dennis Dawes called the meeting to order at 5:00 pm with the following council members present: Terry Harris, Daryl Lund, Dr. Isaac Pope, Bob Spahr, and Chad Taylor. Councilor Tony Ketchum was absent (excused). Staff present included: Jill Anderson, City Manager; Ken Cardinale, Fire Chief; Caryn Foley, City Clerk; Bill Hillier, City Attorney; Hillary Hoke, Planning & Building Manager; Trent Lougheed, Public Works Director/City Engineer; Brandon Rakes, Airport Operations Coordinator; Chun Saul, Finance Director; Glenn Schaffer, Police Chief; Judy Schave, HR/Risk Manager; and Don Schmitt, Street/Storm Superintendent. Members of the news media included Will Rubin of *The Chronicle*.

1. **Public Hearing – Petition to Vacate Right-of-Way at NW North Street.** Mayor Dawes closed the regular meeting and opened the public hearing at 5:00 pm. Hillary Hoke stated the street was originally established as a 60' right-of-way (ROW). In 1989, the southern 15' abutting Wildhaber's location was vacated, reducing the ROW to its current width of 45'. The current application would reduce the width by a further 15' on the opposite side for the other adjacent property owner (Graham). In reviewing the application, staff identified five options:

- Option 1 – Grant the request as written
- Option 2 – Grant request and create no parking zones on both sides
- Option 3 – Vacate the entire width of 45'
- Option 4 – Deny the request
- Option 5 – Deny the request and create no parking zone

Ms. Hoke discussed the pros and cons for each option and stated that staff was recommending Option 5. The entire 45' ROW would be clear and unobstructed at all times. It would be difficult, but smaller cars and potentially some trucks could possibly turn around in the area. The adjacent owner (Graham) would not have their request granted and there would be approximately four to five parking spaces lost adjacent to the Wildhaber property.

Councilor Pope asked if any comments were received by the county as an adjacent property owner. Ms. Hoke stated no comments were received from the county.

Councilor Pope asked if North Street was the only way the petitioner could access their property. Ms. Hoke stated it was the only access to the parcel in the petition. The petitioner owns an adjacent parcel that has access off of Center Street. Councilor Pope asked about the significance of having the ROW. Ms. Hoke stated there were two separate properties. The owner could sell the subject property and the only access would be from North Street. They also need a wide enough space for larger vehicles to access.

Mayor Dawes asked why Option 3 was not being recommended. Ms. Hoke stated the petitioner was not interested in pursuing that option.

Councilor Pope asked about Burlington Northern ROW and possible access. Ms. Hoke stated no one can legally use railroad ROW without permission.

Councilor Lund asked how wide the street actually was. Ms. Hoke stated she didn't measure it, but an actual ROW width would be different than pavement width.

City Manager Anderson stated the financial impact was roughly \$7,500 per 15' of ROW for each party. If the 15' was vacated to the adjacent owner (Wildhaber) that would potentially impact the petitioner (Graham) from getting large vehicles into their property. The reasons for staff's recommendation were to maintain clear ROW, address ongoing issues related to parking, and maintain full access to the petitioner's property. A number of city departments have spent time on these issues.

Ms. Hoke noted that ROW permits could still be issued for deliveries/drop-offs, etc.

Councilor Harris asked how that would be monitored. Ms. Hoke stated it would be similar to the permit a furniture store uses for deliveries made to their building on Pacific Avenue.

Mayor Dawes asked which option would be the optimum choice that would take away the problem and best serve both businesses. Don Schmitt stated he thought that would be Option 3, but he didn't know how that would impact the petitioner.

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Jeff Graham and Richard Graham (petitioners) spoke in favor of the vacation, stating it would allow them to develop their property to its maximum potential within proper setbacks. Jeff Graham stated they do have a building on Center Street, but the only access to the North Street property is off of North Street. They do have a current lease with Burlington Northern, but the railroad could one day say no more lease, and they would no longer have access to their property. Mr. Graham stated parking of vehicles in the ROW was a problem. Leaving parking in certain areas would not allow large vehicles the property. People also access the area via railroad property because there is no proper signage indicating the road has no outlet.

Councilor Harris asked if the problem was a matter of having the proposed building being 10' or 15' shorter. Mr. Graham stated all they were trying to do was maximize the piece of property to build as close to the street as they could. The vacation would allow them to build with a 10' setback and then fence 5' of the property.

Mayor Dawes asked Mr. Graham why Option 3 wouldn't be advantageous to both parties. Mr. Graham didn't think having a co-ownership would work and they had no interest in such a relationship.

Councilor Taylor stated no parking would not fix the setback requirements. Mr. Graham stated he would like the same privilege that afforded the Wildhabers to maximize their building, but he would not build out to the roadway.

Councilor Taylor asked if variances were available to address the required setbacks. Mr. Hillier stated variances were available for changing any laws, and may be available, but that was something he would need to review.

City Manager Anderson noted that variances were typically offered in regard to unique property features that prevent the use of property, which go through the Hearings Examiner process.

Mr. Graham asked if a barricade could be put at the end of the street to stop access to railroad property. Don Schmitt stated it would depend if North Street was an access across railroad ROW or was railroad an access across North Street back in 1989. If it was North Street ROW, the current barricades were in the correct spot. He saw no problem placing a barricade at the end of the street.

Councilor Spahr asked what kind of business they were proposing that would not require parking. Mr. Graham stated they plan to make a storage yard for equipment or a storage building that would have in-and-out access. The parking they use now is through a lease with the railroad.

Councilor Harris asked about parking requirements. Hillary Hoke stated one parking space per storage unit was required.

Pam Wildhaber and Jeremy Wildhaber spoke against the vacation. Ms. Wildhaber stated the building done on their vacated property was permitted and approved by the city. She asked if Option 2 would eliminate all parking. Hillary Hoke indicated it would eliminate about four parking spaces on the south side of the street.

Pam Wildhaber stated that in 1989, Bob Nacht said the proposed vacation was for property between the existing property line and the existing curb line and would not include the curb or any portion of the existing roadway. The existing street was approximately 30' wide and allowed parallel parking on either side, so historically, there has always been parallel parking on both sides of the road.

Jeremy Wildhaber said their business trucks park there, semi-trucks load and unload there, and all their catering trucks use that as a thoroughfare.

Councilor Harris asked if they were using part of the roadway. Mr. Wildhaber indicated they were.

Mr. Wildhaber was confused as to how no parking signs were erected on city ROW without the public being involved. He stated they didn't know what the problem was or what the Grahams wanted to do with their property, but they are saying they want the same rights as the Wildhabers. Mr. Wildhaber stated they had the opportunity to buy that land 30 years ago. If they want a bigger driveway, he suggested they build it on their property and they would have plenty of room.

Ms. Wildhaber stated taking away parking from the entire street would be detrimental to her business and to tax revenue received by the city.

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Mayor Dawes stated the placement of signs was delegated to staff and he suggested the Wildhabers could discuss that with staff at another time, so that the public hearing could stay on point.

Councilor Pope asked how Option 5 would impact the Wildhabers. Ms. Wildhaber stated she was concerned about deliveries to her business, which occur on all days and at all times.

Councilor Spahr asked how trucks associated with the restaurant exit. Mr. Wildhaber stated they use railroad ROW to exit, which they have spoken with the railroad about. Councilor Spahr stated that was trespassing and if the railroad decided to block that access, they would no longer have that access.

Mayor Dawes warned the railroad could change on a dime and local railroad staff do not speak for headquarters. He also stated his concern with loading zones was that they can be abused and treated as private parking spots.

Councilor Pope asked for staff to provide true boundaries of the property so council could see the actual property lines. City Manager Anderson stated staff could do that, but with staffing issues it make take until the second meeting in August.

Jeff Graham stated he recently had the property surveyed and a registered survey was available at the courthouse.

City Manager Anderson stated it was her understanding that the gravel placed in the city ROW was permitted. The barricade that was placed in city ROW was not permitted. As far as staff can tell, the no parking signs were put up by city staff in order to preserve room on the narrow street. Both property owners needs and desires to use their property to its upmost benefit was important, but were taking a fair amount of very limited time by many people and it would be nice to have it resolved.

Councilor Spahr believed the city made a mistake in granting the vacation in 1989, but that can't be undone. He expressed concern about emergency service access. He stated he was leaning toward Option 5.

Mayor Dawes closed the public hearing at 6:10 pm and reopened the regular meeting.

Councilor Taylor thought each property owner should be given the same opportunity, and he moved to approve the vacation – Option 1. The motion was seconded by Councilor Lund. The motion failed 4 to 2. Those voting against the motion were Councilors Harris, Pope, and Spahr, and Mayor Dawes.

Mayor Dawes asked Ms. Wildhaber how losing 4 spaces under Option 5 would impact her business. Ms. Wildhaber stated it would not be the end of the world, but every parking space was valuable. Mayor Dawes asked how long a typical loading/unloading took. Ms. Wildhaber stated it could be a half-hour to an hour.

Councilor Spahr asked if the Grahams had specific plans for the property. Mr. Graham indicated they had a plan, but until they had something concrete with regard to the vacation, nothing was in stone.

Councilor Pope asked Mr. Graham how Option 5 would impact him. Mr. Graham stated he would not be able to add to his development. The vacation is for setback to maximize the lot.

Councilor Lund asked if it would help if Mr. Graham went to the city's Hearings Examiner about a variance from the setback requirements. Mr. Graham stated no parking would still be needed even if they got the setback variance.

Councilor Spahr moved to approve Option 5 and direct staff to present an ordinance for first reading at the regularly scheduled meeting on August 12. The motion was seconded by Councilor Pope.

City Manager Anderson clarified that if Option 5 was granted, an ordinance was not needed. The power to establish parking has been delegated by the council to the Police Chief.

Mayor Dawes stated that Option 5 was to deny the application and create a no parking zone along both sides of NW North Street from the Graham property to the BNSF railroad ROW and from the Wildhaber building to the BNSF ROW.

Councilor Spahr stated a loading zone would address the Wildhaber's concerns and should not interfere with the Graham's property.

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Councilor Lund stated Councilor Pope requested correct drawings of the situation because the pictures being looked at now were not right. He stated council needed to see the correct boundary lines and asked if the council could request from the Hearings Examiner whether or not the Grahams could obtain a setback variance.

City Attorney Hillier stated a request for a variance would have to come from the property owner, not the council.

City Manager Anderson stated staff would happy to provide what Councilor Pope asked for.

Upon further discussion about how to proceed, Councilor Spahr withdrew his motion and Councilor Pope withdrew his second to the motion. Mayor Dawes asked that the matter be brought back for action by council with the information requested by Councilor Pope.

Mr. Wildhaber stated they had no part in creating the five options and asked if a sixth option could be created. Mayor Dawes stated the options were created by staff and if Mr. Wildhaber wanted to add another option, he could forward it to the City Manager and staff would consider it.

Trent Lougheed thought staff could be prepared to bring something back to council at the next meeting. Mayor Dawes asked that staff notify the parties when the matter would be on the agenda.

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

a. Minutes of the regular meeting of July 8, 2019; and

b. July 15, 2019 Claim Vouchers No. 126274-126409 and Electronic Funds Transfer Nos. 62019 and 620191 in the amount of \$364,552.22.

The motion was seconded by Councilor Lund and carried unanimously.

3. **Ordinance No. 999-B, Second and Final Reading – Providing for the Issuance and Sale of a Limited Tax General Obligation Bond Not to Exceed \$1 Million to Finance the Recreation Park Renovation Project.** City Manager Anderson noted no changes had been made to the ordinance since first reading; however, staff reviewed the budget and revised the plan to use \$900,000 instead of \$825,000 for perimeter landscaping or decorative fencing along 13th Street to reduce the potential for little kids running into the street, and for landscaping around the VR Lee Building and Fred Hess Kitchen.

Mayor Dawes suggested using a private well for irrigation purposes to make sure any landscaping was taken care of.

Nancy Nerass, bond counsel attorney with Foster Pepper, provided an overview of the bond ordinance process.

Councilor Lund moved to pass Ordinance No. 999-B on second and final reading. The motion was seconded by Councilor Harris. Mayor Dawes thanked Councilor Lund for suggesting that staff review the budget. The motion carried unanimously.

City Manager Anderson noted a groundbreaking ceremony would be planned for late August or early September.

4. **Ordinance No. 1000-B, First Reading – Amending the 2019 Annual Budget.** Chun Saul provided an overview of the proposed budget amendment and highlighted changes relating to the various departments in the General Fund. Amendments to the Public Facilities Reserve Fund related to the Recreation Park renovation project and the pool liner replacement project. Ms. Saul noted changes to other various funds.

Mayor Dawes noted part of the transfers out were funds that the council directed be put into various reserve funds.

Councilor Spahr moved to pass Ordinance No. 1000-B on first reading. The motion was seconded by Councilor Pope and carried unanimously.

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5. Administration Reports.

a. **Finance Report.** Chun Saul provided the 2019 second quarter finance report for all funds including the General Fund and Enterprise Funds. Overall, year-to-date revenues and expenditures were within budget projections and parameters. She stated staff was keeping a close eye on sales tax.

Mayor Dawes suggested it was important to look at all tax revenues, noting building taxes always go up and down. He thought that watching all revenue tax trends was important, especially as next year's budget is reviewed by the council budget committee.

Ms. Saul reported the city's total cash and investments as of June 30 was \$22,887,839, noting that only \$1.3 million was for the General Fund. All other funds are restricted and can only be used for very specific programs and activities.

b. **City Manager Update.** City Manager Anderson stated Hillary Hoke accepted a position with a neighboring jurisdiction and she was so sorry to see her go. She reported that one of the city's life guards, Luke Griffith, saved the life of a baby who was choking.

Mayor Dawes asked that Luke attend a future council meeting to be recognized. He also requested that the police officers involved in life saving measures by administering first aid to a non-responsive individual at the Main Street park-n-ride attend a council meeting. He stated that if the employees were uncomfortable coming to a council meeting, he would be happy to attend a staff meeting.

6. Councilor Reports/Committee Updates.

a. Councilor Spahr attended an EDC meeting. He announced that his daughter was recently promoted to Corporal in the United States Army.

b. Councilor Pope stated the Chehalis Foundation has done a lot for the city and schools, and he invited everyone to their first annual holiday gala on November 23. They are looking for sponsors and individuals to buy tables. Part of the money from the event will go toward Penny Playground.

c. Mayor Dawes stated the last two Music in the Park events were very well attended, and the last event will be this Friday. Mayor Dawes also attended Business After Hours held at Visiting Nurses. He stated ChehalisFest was this Saturday and he would be cooking pancakes at the Historical Museum from 8:00 a.m. to 11:00 a.m.

7. **Executive Session.** Mayor Dawes announced the council would take a short recess and then be in executive session pursuant to RCW 42.30.110(1)(b) – Selection of Site or Acquisition of Real Estate; RCW 42.30.110(1)(c) – Minimum Price at Which Real Estate Will be Offered for Sale/Lease; and RCW 42.30.110(1)(g) – Review Performance of a Public Employee, not to exceed 8:15 pm and there would be no decision following conclusion of the executive session. Mayor Dawes closed the regular meeting at 7:33 pm. The executive session began at 7:35 pm. At 8:15 pm, Mayor Dawes announced the executive session would continue until 8:30 pm. Following conclusion of the executive session, the regular meeting was reopened and immediately adjourned at 8:29 pm.

Dennis L. Dawes, Mayor

Caryn Foley, City Clerk

Approved: 8/12/2019

Initials: cf