

September 9, 2013

The Chehalis city council met in regular session on Monday, September 9, 2013, in the Chehalis city hall. Mayor Ketchum called the meeting to order at 5:00 p.m. with the following council members present: Terry Harris, Dr. Isaac Pope, Bob Spahr, 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; Peggy Hammer, Human Resources Administrator; and Dennis Osborn, Community Development Director.

1. **Proclamation.** Mayor Ketchum presented Mareta Boes and Chris Thompson with a proclamation declaring September 21, 2013, as Health and Wellness Day in the city of Chehalis.

2. **Update on Flood Authority Activities.** City Representative Arnold Haberstroh stated the process was a little overwhelming, but the city representatives before him did a great job and everything was coming together. He noted the projects in the works were moving along, adding they recently combined monies they received for the Mary's River project to provide bank erosion protection for the saw mill site and to protect the wastewater treatment plant in Montesano, WA, from structural damage from high river flows. Mr. Haberstroh stated it was important to show the Legislature that the money they are receiving isn't just sitting there, and that they are making an impact.

Mr. Haberstroh thanked the council for the opportunity, adding they may not hear from him a lot, but he had their best interest at heart. He stated it was good to be involved with a group that's finally doing something.

Commissioner Edna Fund provided statistical information used to analyze the allocation of payment for the flood gauges. She stated they took into consideration the basin population and the historical damages reported by the National Flood Insurance Program. Commissioner Fund reported Lewis County had 90 percent of the action and felt we needed take responsibility for that.

Commissioner Fund reported Chehalis was being asked to pay \$4,000 towards the gauges, and suspected it might be less money in 2015. She stated it was up to each county to decide how much each city involved with the Flood Authority will pay towards the gauges.

Mayor Ketchum asked if our portion increased because Grays Harbor said they were not going to pay for the gauges. Commissioner Fund stated no, adding the increase was due to analyzing what actually happened in the basin. She noted it was previously based on population only, and now it's based on population and flood insurance payments. Commissioner Fund stated Grays Harbor County does not have the flood damage that we have in Lewis County, and we'll benefit the most from them.

Commissioner Fund reported the Flood Authority is going to make a more concerted effort to communicate with all of the elected officials in the basin. She noted elected officials would be receiving emails from the Flood Authority that are of the highest priority, as well as a summary of each meeting.

Commissioner Fund invited the council to attend the next Flood Authority meeting on Thursday, September 19, at the Adna Grange. She noted the regular meeting starts at 9 a.m., lunch at noon, and at 1 p.m. they will be touring of some of the gauges, critter pads, and the levees at Chehalis-Centralia Airport and Adna.

Councilor Harris inquired as to who is taking care of the gauges. Commissioner Fund reported USGS and West Consulting are taking care of them. She noted, with regard to the gauges, Scott Boettcher with the Flood Authority, is doing a lot of research to make sure they are using their money wisely.

J. Vander Stoep from the Governor's work group thanked Mr. Haberstroh and Commissioner Fund, adding it's really turned into a great team. He noted even Grays Harbor has leadership that's very much on the same page as us now.

Mr. Vander Stoep spoke briefly on the allocation of expenses for the gauges, noting if Lewis County is receiving 90 percent of the damage, it only made sense that we should pay more proportionately than anyone at the bottom of the pipe when it comes to flooding. He noted the proposal made by Lewis County shows active leadership and that we're in this together, and we need Grays Harbor to continue to participate.

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Mr. Vander Stoep reported the Governor's office passed a \$28 million package that was requested by the Flood Authority and the Governor's work group. He noted the Flood Authority is primarily focused on the local project piece that includes \$10.7 million to construct priority local flood protection projects. Mr. Vander Stoep reported \$9.2 million was designated for design alternatives for large capital flood projects for basin-level water retention and Interstate 5 protection.

Mr. Vander Stoep provided a PowerPoint presentation that outlined the following strategy elements:

- Dam feasibility
- Hydrology and hydraulics
- Scenario of small flood damage reduction projects
- Survey of floodplain structures
- Comparison of alternatives
- Aquatic species enhancement plan
- Identification of aquatic species underway
- Assess wildlife
- Overview of the first six months and the second six months
- Elements of process
- Upcoming workshops
- Budget summary

Mr. Vander Stoep reported there would be several hundred people doing the work, adding it wasn't a small operation. He stated the work is expected to be complete by August 31, 2014, and all options were on the table. Mr. Vander Stoep reported, in September or October of next year, the work group would meet and make a recommendation to the Governor on all of the pieces. The Governor would then have to recommend, or not recommend going forward with permitting. Mr. Vander Stoep reported under the proposed timeline the Governor is to make that decision in December 2014.

Mayor Ketchum stated he appreciated all of their hard work and thanked the representatives for the update.

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

- a. Minutes of the regular meeting of August 26, 2013; and
- b. Claim Vouchers No. 106994-107099 in the amount of \$100,786.45 dated August 30, 2013; and Direct Deposit Payroll Voucher No. 4284 dated August 23, 2013; Payroll Vouchers No. 36783-36863, Direct Deposit Payroll Vouchers No. 4285-4363, and Electronic Federal Tax Payment No. 127 in the amount of \$651,218.90 dated August 30, 2013.

The motion was seconded by Councilor Spahr and carried unanimously.

4. **Administration Reports.**

a. **Briefing on Code Amendment Recommendations by the Chehalis Planning Commission.** Community Services Director Dennis Osborn reported this item had been piecemealed together over time, starting with the procedures to vacate city right-of-way. Added for review were: the new state building code updates, new state SEPA exemptions, sale and use of marijuana, binding site plan amendments, and the Accessory Dwelling Unit (ADU) conflicting code issues. Also added during Planning Commission discussion was the topic of tent camping within the city. He noted they packaged everything up through the text amendment process and presented it to the Chehalis Planning Commission for their review and recommendations. Mr. Osborn stated he would be looking for feedback and direction from the council on all of recommendations made by the Planning Commission.

Mr. Osborn reported the SEPA process had been delayed and was pulled because the state is still working on some modifications to the rules. Also withdrawn is the marijuana issue because the federal government has backed off on its position of enforcement in Colorado and Washington, and the State Liquor Control Board has come out with some new rules.

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Mr. Osborn stated he would be getting together with the City Attorney and City Manager to figure out the next steps on the marijuana issue, based on what came out last week.

City Manager MacReynold reported he and City Attorney Hillier had talked about the marijuana issue and felt it would be good to have an executive session to get direction from the council on how they want to approach it.

Mr. Osborn briefly reviewed the following text amendments and recommendations by the Planning Commission:

- State Building Code Updates: (Already passed by the Legislature. The Legislature did not pass the section on requiring sprinkler systems in homes, so it will not be in our building code.) Recommend legislative action to adopt the new 2012 State Building Code Regulations.
- Capital Improvement Plan (CIP): (Housekeeping item to deal with financing issues.) Recommend legislative action to update the CIP, as proposed.
- Binding Site Plan (BSP): Recommend legislative action to amend the Chehalis Municipal Code (CMC) to remove the one year approval limit for a BSP and follow state law.
- Accessory Dwelling Unit (ADU): (Language conflicts within CMC.) Recommend each unit have its own water meter.

Councilor Dawes stated he would like to get some additional information on the ADU issue. He reported he had been working with a resident who purchased a home with an ADU, noting they ended up having a very difficult time while going through the city's process.

Councilor Dawes stated he had a concern with someone other than the council making changes on how things are done. He stated when policies get changed and they find out about it when a constituent comes to them upset, that's hard to take. Councilor Dawes stated there are certain things that the council needs to have input on, and this is one of them.

City Manager MacReynold believed the situation Councilor Dawes talked about was an on-going discussion that has taken place over the years. He stated the policy has remained the same, but there is disagreement about it. City Manager MacReynold reported this is an opportunity for the council to give guidance, which is what the administration is seeking. He noted, procedurally, the administration is going through the right process to bring these issues to the council to get some clarification.

Councilor Dawes stated that was correct for tonight, but if we have a situation where our ordinances are being met and staff are throwing out additional requirements, that's changing the process and that's what he has concerns about. He hoped we would have some kind of grandfather clause within the code that would take care of that issue for previously built homes.

Councilor Lund inquired as to the definition of a "unit." Mr. Osborn reported it was defined in the CMC, Title 13 as: "Premises - means a private home, building apartment house, condominium, trailer court, mobile home park, a group of adjacent buildings, or property utilized under one ownership and under a single control with respect to the use of water and responsibility for payment thereof."

Councilor Lund asked the question, if someone turned their basement into living quarters for a family member, would they need a separate sewer and water hookup? Mr. Osborn stated, under what was being proposed, yes. Councilor Lund stated that was wrong and he had a big problem with that.

Councilor Taylor asked if the Planning Commission made the recommendation on the ADU issue, or was it recommended by staff to the Planning Commission.

Mr. Osborn reported the issue was first brought to council when they had an issue with an ADU. He noted, back in December 2013, the hearings examiner rendered an opinion for that ADU and imposed the condition that they had to have a separate water meter. The resident missed the appeals period and the city ended up spending a lot of time with the resident to get things hammered out.

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Mr. Osborn stated staff's job is to follow the code. He noted, on one hand, CMC 13.04.060 states, "Water services for a premise - each premise shall have a separate water service or services." As noted earlier, the definition of a premise included more than one unit, such as "a group of adjacent buildings." Appendix Chapter F under Definition of Words, Terms, and Uses, states, "Accessory Dwelling Unit (residential) is any dwelling unit converted from an existing accessory building, or within an existing single family residents on a residentially zoned lot for the purposes of accommodating live-in domestic help, or family members, such unit receiving it's utilities from the same source and metering as the principal dwelling unit. He stated that was how it came forward and they took it to the Planning Commission to resolve the conflict.

Mr. Osborn stated he felt public works did their homework and believed in order to be compliant with state law we have to require a separate water meter, which was what they shared with the Planning Commission. Based on that information, the Planning Commission made their recommendation to the council to have separate water meters.

Councilor Dawes wondered why the state would care, or why the city should care as long as the rest of the zoning ordinances are followed and the residents are not circumventing the meter. He noted, with the way things are economically, it's become more necessary for people to have a separate unit for other family members. Councilor Dawes stated requiring a separate meter was asinine and reeked of bureaucracy, which is what we fight every day at the state and federal level.

Councilor Harris stated his recommendation echoed what the rest of the council members were saying.

City Attorney Hillier stated the council was absolutely right, but what's happening is, after the relatives move on, homeowners are turning the extra space into rental units and basically running a business. He noted if they change the policy too far in that direction they could end up having several people building ADUs in their basements and end up with rentals all around town.

Councilor Pope suggested they add language for the "use" of an ADU. He felt if the homeowner is renting the space they should have to pay for the additional hookups, and perhaps be required to have a business license.

Councilor Taylor stated it bothered him that staff would think this is a good idea. He would hope staff would bring things forward that would make it easier and "more friendly" to live and do business in the city; however, what was being proposed was just the opposite.

City Manager MacReynold stated he understood Councilor Taylor's concerns, but noted there was clearly a conflict in the code, and at the staff level this discussion had been going on for as long as he's been here.

Councilor Dawes stated he thought the concerns brought up by the city attorney regarding renting out ADUs was taken care of.

City Attorney Hillier reported the initial use has been fine, but after the initial use terminates they start using it as a rental unit. He suggested the council include the words "initial use" in their policy and that would take care of the issue.

Councilor Dawes stated he did not want the code changed, adding it wasn't fair for someone who buys an existing home with a separate living unit to have to buy a separate service. City Attorney Hillier stated the city would only approach them when it changes from a separate living unit to a rental unit. Councilor Dawes stated he didn't have a problem with that.

After discussing the matter, it was decided that a work session was needed to come to agreement on how the code should read with regard to ADUs.

- Text Amendment – Tent camping: Recommend that Planning Commission restricts tent camping within the city to back yards within the residential zone for a period not to exceed 14 days within any 30 day period. The tent must be on private property and located in the rear or side yard. Tent camping is prohibited in all other zones except for approved RV Parks, in which case shall comply with the appropriate provisions of the CMC.

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Councilor Harris brought up the issue of the RV situation in the Yard Birds parking lot. He felt it was something that should be looked at again to see how that situation can be addressed. The consensus of the council was to have it looked at. Mr. Osborn stated he and staff would take a look at the situation and bring it back as a separate study item.

- Proposed right-of-way vacation ordinance – Recommend adoption of draft ordinance.

Councilor Harris felt a lot of the issues regarding right-of way vacations had already been addressed, but he liked the draft ordinance being proposed.

Mr. Osborn stated, other than the ADU issue, he would come back after working with legal counsel and the city manager to get the other items in the appropriate adoptable format for council's review and consideration at a later date.

## 5. Council Reports.

a. **Update From Councilor Spahr.** Councilor Spahr reported he attended the W.F. West football game in Port Angeles, Washington, adding it was a long drive, but a good game. He noted the Bearcat's won the game with a final score of 41-6.

b. **Update From Councilor Harris.** Councilor Harris reported he and staff had been working on the new regulations for distribution of lodging tax funds. He stated the biggest challenge is when the Lodging Tax Advisory Committee (LTAC) comes back with recommendations for the council to consider, and all the council can do is agree with the recommendations being presented for each entity, or give an entity zero dollars.

Councilor Harris reported Assistant City Attorney Mark Scheibmeir gave them a legal interpretation of the legislation; however, as part of the same bill, if the council wants to do something different, it would have to go back to the LTAC and they would have 45 days to review it. He felt that the legislators don't understand what they are writing when writing legislation, adding, in this case, they've given the LTAC the ability to make decisions and have taken away the council's authority.

Councilor Harris suggested there are going to be a number of issues because the requirement for tracking heads-in-beds will put the onus on the individual entities. He noted the hoteliers are trying to build a format where they can ask guests why they are there and what they'll be visiting, but even they note conflicts in the accuracy of that information.

Councilor Harris reported the hoteliers were very much in favor of sun-setting the legislation, noting they wanted the 4 percent bed tax to go to them because the state closed down the state tourism fund. He noted, throughout the state, the hoteliers make up all but 1 vote of the majority of every LTAC. Councilor Harris felt some hoteliers will only be looking at what benefits them, and unfortunately, we may see them try to force it back in front of the Legislature again.

Councilor Harris stated he and City Manager MacReynold would be meeting with the city attorney later in the week to get an interpretation on the process. He noted the LTAC would be meeting on October 7 to review the applications for funding requests, adding it would be nice to know what they are doing right or wrong.

Councilor Lund asked if there had been any discussion on the policy regarding the number of years an agency can receive lodging tax funding from the city. He suggested, at some point organizations should be expected to operate without the use of lodging tax funding. Councilor Lund stated it's been discussed before, and asked if any of the others felt they should make a new policy that organizations can only receive money for so long.

Councilor Harris stated that was why they have an advisory committee, and they take those things into consideration. He noted it's important that they have agencies and organizations that continue to put heads-in-beds. Councilor Harris believed the promotion of the organizations seems to be what's working for them, and the LTAC continues to fund them. He noted they've had organizations in the past that they no longer fund because they don't meet those standards.

Councilor Dawes suggested Municipal Research or the Attorney General's Office might be able to help out. Councilor Harris reported they can't seem to get anything from the Attorney General or the State Auditor's Office on this issue, which he found very interesting.

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c. **Update From Councilor Dawes.** Councilor Dawes reported, on September 5, he attended the “Fiddler on the Roof” event, which was an event for the Foundation at Centralia Community College.

d. **Update From Councilor Taylor.** Councilor Taylor gave a brief update on Twin Transit, noting they held several public meetings on the issue of changing bus routes and expanding service to Olympia. He reported he was successful in not raising taxes, but was unsuccessful on the city's position of not offering commuter service to Olympia.

Councilor Taylor reported the routes between Chehalis and Centralia would be changed to improve the efficiency of the routes. The issue of expanding service to Olympia was supported by the city of Centralia and Lewis County, adding they believe the people riding the bus north will be using it to get to work and felt it was valuable for that purpose.

6. **Executive Session.** Mayor Ketchum closed the regular meeting at 6:23 p.m. and announced the council would be in executive session pursuant to 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 Ketchum closed the executive session at 6:44 p.m. There being no further business to come before the council, the meeting adjourned immediately.

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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 September 9, 2013.**