

October 14, 2013

The Chehalis city council met in regular session on Monday, October 14, 2013, in the Chehalis city hall. Mayor Ketchum called the meeting to order at 4:00 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; Eva Lindgren, Finance Manager; Dennis Osborn, Community Development Director; Becky Fox, Court Administrator; and Rick Sahlin, Interim Public Works Director. Members of the media included Kyle Spurr from *The Chronicle*.

1. Work Session – Review Chehalis Municipal Code (CMC) on Utility Connections for Accessory Dwelling Units (ADU) and Use of City Right-of-Way for Flags, Signage, and Banners. The council held a work session to review the city's code on accessory dwelling units and the use of city right-of-way for flags, signage, and banners. City Manager MacReynold stated the administration was hoping to get clear policy direction from the council on both issues.

Community Development Director Dennis Osborn talked briefly about the problem the administration is having with how the city's current code addresses the issue of utilities for ADUs. He provided the following options for council consideration:

1. As part of the conditional use permit application for an ADU, the application would require the homeowner to sign a covenant that would be recorded and would run with the land, so as to require all future owners of the property to recognize that the only use for an ADU would be for family members only and not for commercial purposes in any fashion. If, down the road, the owner were to desire using the ADU for any purpose other than for family, the owner would then have to install separate utility connections to the ADU, or remove the ADU since the purpose on the conditional use permit is no longer in effect.
2. Remove the current requirement for a conditional use permit by making an ADU a permitted use and revise Chapter 13 of the CMC to reflect an exemption for separate utilities for ADUs.
3. Define "ADU" to clarify that it cannot be a fully self-contained single-family residence complete with kitchen and laundry facilities and receives utilities through the same source as the main residence.
4. Define "ADU" to be a fully self-contained single-family residence that receives its utilities through its own utility connections, separate from the main residence.

After a brief discussion, the consensus of the council was to go with Option 1.

Mr. Osborn reported the administration was also asked by the council to look at allowing commercial signage within the right-of-way. He reviewed the current code and provided the following options for council to consider:

1. Currently the sign code allows off premise signs within 300 feet of Kresky Avenue and National Avenue. Simply amend the code to state the following: "and within the roundabouts on Louisiana Avenue."
2. Utilize the right-of-way permit section of the CMC to review applications of signs in the right-of-way and establish clear policy direction for review.
3. Prohibit signs in the right-of-way.

The council stated their concerns and provided the administration with information on what they would like to see in the code. The consensus of the council was to go with Option 1.

Mayor Ketchum closed the work session at 4:39 p.m. and announced the council would take a 20 minute recess before reopening the meeting at 5:00 p.m.

2. **Consent Calendar.** Councilor Dawes moved to approve the consent calendar comprised of the following:
 - a. Minutes of the regular meeting of September 23, 2013; and

October 14, 2013

b. Claim Vouchers No.107215-107334 in the amount of \$175,247.93 dated September 30, 2013; and Payroll Vouchers No. 36864-36936, Direct Deposit Payroll Vouchers No. 4364-4442, and Electronic Federal Tax Payment No. 128 in the amount of \$674,641.06 dated September 30, 2013.

The motion was seconded by Councilor Pope and carried unanimously.

3. Administration Reports.

a. **Update on City Wellness Program.** Committee Chair Becky Fox gave a brief update on the city's wellness program. She reported the Wellness Committee meets monthly to go over the different programs promoted by the Association of Washington Cities Insurance Authority, and to think of ways to get employees and their spouses more involved in their health.

Ms. Fox provided information on some of the activities to date, to include: an Employee Needs and Interest Survey; on-site health screening; corporate gym membership discount; two brown-bag health and wellness seminars to promote weight management coaching; health questionnaire; and the Walk Across Washington campaign. She talked briefly about the campaign, noting the city's goal is to do a virtual walk of 1,500 miles in 42 days.

Ms. Fox reported the health questionnaire is the main promotion right now, adding we need to achieve a 50 percent participation rate by November 1 in order to receive a two percent rate discount. She noted we are currently at 33 percent, and encouraged the council to take the time to fill out their questionnaires.

b. **Annual General Obligation (GO) Bond Compliance Update.** Finance Manager Eva Lindgren reported, when the city issued the limited tax GO bonds in 2011, it was clearly stated that the city council is responsible for compliance and oversight. She noted the agenda report included two confirmations that the city's 2012 unaudited financial statements and the statistical information had been uploaded as required. Ms. Lindgren reported she would report back to the council in November to provide confirmation that the audited 2012 financial statement has also been uploaded.

c. **Update on Chehalis Outdoor Pool Project.** Community Development Director Dennis Osborn reported the pool project was moving forward. He stated they were ready to go out to bid, and for the most part, the permits for the project are up and out the door. Mr. Osborn reported he and City Manager MacReynold met last week with the project architect and construction manager to discuss matters having to do with the project. He also had a broader meeting with the Chehalis Foundation a few weeks ago to talk about the timing of the project.

Tim Saylor, President of the Chehalis Foundation, reported the state of the new pool is excellent. He noted their funding expectations were not quite where they want them to be, but they have every expectation that they will achieve their goals. Mr. Saylor stated they really couldn't suffer any more delays, adding timing was critical. He noted they discovered a few soils issues after they started digging into things, but the real wild-card is what the bids will come in at.

Mr. Saylor stated their fundraising efforts continue and they hope and expect to arrange for another \$250,000 towards their goals. This would include some cushion for future maintenance and other things on the wish list. Mr. Saylor stated they were pushing really hard to get the pool open by next summer.

J. Vander Stoep reported they originally thought construction would start right after Labor Day, but they were held up by the federal grant and were not allowed to touch anything on the site until the grant was nailed down. He stated they do have some risk of bad weather to deal with, and possible construction cost issues, but based on their best estimate, the pool should open up sometime mid-summer.

d. **Briefing on I-502 – Regulations for Marijuana Sales and Production.** Mr. Osborn reported, with the passage of I-502, voters of the state made it legal to sell, grow and process marijuana. He noted the state has drafted some rules and regulations, but there's still the question of what municipalities should do. Mr. Osborn stated, even though the initiative passed, there are still federal laws out there that create a bit of a quandary. He reported this administration has basically backed off of trying to go after folks who are operating within I-502, but the question we face is what happens when there's a new administration, or when there are changes at the Justice Department?

October 14, 2013

Mr. Osborn reported the administration came up with the following options for the council to consider:

- A. Do nothing (allow under current rules – the licensing would be by state, we change no laws to allow or deny)
- B. Ban sale, growing and processing (since the federal position is based on presidential direction as opposed to federal law, a new president could change the federal direction)
- C. Ban growing and processing, but allow sale (allow sales per state law, but ban growing and production as it may conflict with another state law)

Option A: Under this option retail sales for marijuana would fall under the allowed use of retail sales in the zoning code and would be allowed in the general commercial (C-G) zone subject to the state rules of 1,000 feet from places where kids are and the state sign requirements. Production and processing would be allowed under the current code that allows for hemp production and manufacturing in the light industrial (I-L) zone.

Under this option, the city would neither be in violation of state law by prohibiting sales, production and processing of marijuana, nor would the city be in violation of federal law by passing laws that allow the sale and production.

Under Option A, the city would just be interpreting the municipal code that already exists and allows retail shops in the C-G and hemp production in the I-L zone. Under state rules, one retail facility is allowed within Chehalis and would be regulated by state rules and regulations.

Option B: Under this option the city would not permit production, processing or sale of marijuana. This would place the city in a position of taking the opposite stand than the state and the voter approved initiative. The flip side is the city would not be exposed or in violation of federal law. The Justice Department has stated they will not prosecute, but the federal position is by this presidential administration and does not change the federal laws since Congress did not vote and change law. A new president may take a different approach.

Option C: Under this option the city would allow retail sales the same as in Option A, but prohibit production and processing by taking the position that this falls under agricultural land of long term significance. Washington State's Growth Management Act only allows agricultural lands of long term significance within rural areas and not within cities.

Mr. Osborn noted the city currently has a moratorium in place and would be seeking direction from the council on that matter, as well.

Councilor Dawes stated the way the federal law is written, all marijuana sold in Washington would have to be grown or manufactured here. He tended to lean towards Option C, and fight off the potential of anyone wanting to come after us saying we have to allow one retail shop just because we've been given one.

City Attorney Hillier reported if they do nothing and follow the rules and regulations in place at the state level, by default, Option C would be part of Option A.

Councilor Dawes stated he was just trying to do the minimum so we don't have to spend taxpayer money defending ourselves. He noted if Option A works to get the point across, that was fine with him.

City Attorney Hillier reported with the current statutes that are in place, no one will be able to process or grow marijuana in Chehalis. He noted Option A would allow us to roll with the state and they would impose the laws and oversee it. If there is a violation, our law enforcement will be informed through the Liquor Control Board and we'll enforce it.

Councilor Spahr stated he was concerned with Option A because generally when you do nothing and have someone else overseeing it, you end up with no control over what happens.

City Attorney Hillier reported our existing zoning would stay in place and as far as retail marijuana sales for pleasure

October 14, 2013

purposes, they cannot take place within 1000 feet of critical areas, such as libraries, schools, etc. He suggested the council read the state regulations to get an idea of how restrictive they are. City Attorney Hillier stated the administration felt very confident that the regulations were going to be hard to overcome, and there are very few places they will be able to locate in Chehalis.

Mr. Osborn reported, for the most part, the downtown area will not be able to accommodate a retail facility. He stated, if they had one, it might be somewhere along National Avenue and would have to be a stand-alone facility that only sells marijuana.

Councilor Harris noted he looked at the maps provided in the agenda report and wondered if we were being prohibitive and if that was legal. City Attorney Hillier reported for medical marijuana it would be an issue, but for retail sales it can be banned. He noted the city of Kent recently got a legal opinion from their counsel stating they have the absolute right to ban everything, and they did. City Attorney Hillier suggested we could do that as well, but if we just do nothing, we're only susceptible to one retail outlet if they can fit it in here.

Mr. Osborn reported, under Option A, the city would simply go by state rules and regulations.

The consensus of the council is to go with Option A.

Mr. Osborn reported by going with Option A the only action needed by the council would be to lift the city's current moratorium.

Councilor Dawes wondered what would happen if the moratorium was extended. He suggested the council extend it to see if anyone challenges us.

City Attorney Hillier stated the council could do that, but the administration was trying to put some finality to the situation.

After a brief discussion, the consensus of the council was to extend the moratorium.

City Manager MacReynold stated he was informed by the city clerk that the current moratorium is good through March 11, 2014.

e. **State Audit Exit Conference.** City Manager MacReynold reminded the council about the upcoming 2012 exit conference with the State Auditor's Office on Wednesday, October 30, at 3:00 p.m. He stated, based on what we know, there are no findings, but there were some management recommendations.

f. **Lewis County Commission Decision on Airport.** City Manager MacReynold reported the Lewis County Commissioners would be dealing with the ownership of the airport property on Monday, October 21, at 10:00 a.m.

4. **Council Reports.**

a. **Update From Councilor Spahr.** Councilor Spahr reported he attended the Lewis County Economic Development Council Board meeting, noting they have some very interesting client activity, but couldn't talk about it at this time.

b. **Update From Councilor Harris.** Councilor Harris reported he and David Hartz met with the Chehalis Foundation to request funding for holiday decorations and was happy to report that, before they walked out, the Foundation cut them a check for \$10,000. He thanked the Foundation for their generosity.

Councilor Harris reported the Lodging Tax Advisory Committee (LTAC) met to review the funding requests for 2014. He noted Michel Rey from the Best Western was appointed to the committee to replace Natalie Ketchum. Councilor Harris reported, because of the new legislation, there was a lot of trepidation and concern about how the meeting was going to go; however, it turned out much better than he thought it would. He felt the committee did a great job and believed the council would get the committee's recommendations at the next regular meeting.

October 14, 2013

c. **Update From Councilor Pope.** Councilor Pope asked Architect Norm Pfaff if he had any additional comments about the pool project, since he was not present during the discussion earlier.

Mr. Pfaff reported the advertisement for bids would go out on Thursday, October 17, with the bid opening on November 14. He noted they also had a pre-bid conference scheduled for November 5, at 1:00 p.m. Mr. Pfaff stated everything is going very smoothly, noting all of their documents were up to date. He noted the city did a wonderful job in their review and providing permits for the project. Mr. Pfaff reported, if they receive successful bids, work will start on or about December 1 and be done in time to do a grand opening in August 2014.

Councilor Lund stated he was approached by some members of the Foundation who let him know there were some problems. He noted he spoke to City Manager MacReynold about the issues, and when the city manager contacted them, the individuals told him there were no problems. Councilor Lund suggested if Mr. Pfaff is having any difficulty with staff in moving things along that he should go directly to City Manager MacReynold.

Mr. Pfaff stated he was not aware of any problems with staff, adding he and City Manager MacReynold have an agreement about who to contact if there are any issues. He apologized that Councilor Lund got raked over the coals. Mr. Pfaff reported the only challenge they've had is with the soils report, noting when they built the freeway they distributed seven feet of spoils into the ground where the pool currently sits. He noted the foundation for the existing pool goes down seven feet and if they remove anything or add any new structure it all has to be dug out and replaced with new fill.

d. **Update From Councilor Dawes.** Councilor Dawes reported he attended the Tea Party meeting at Candidates Night last week. He noted Councilor Taylor was there and did an eloquent job speaking, as he always does.

Councilor Dawes reported the next Regional Fire Authority Planning Committee meeting was scheduled for Wednesday, adding they would be reviewing the draft interlocal agreement. He indicated they were getting very close to presenting it for functional consolidation.

e. **Update From Councilor Lund.** Councilor Lund reported the Chehalis-Centralia Railroad and Museum's pumpkin steam train ride was coming up on October 26-27. He noted they were also set up to start selling tickets for the Polar Express steam train rides, noting tickets could be purchased on-line. Councilor Lund reported the organization seemed to be moving forward in a positive direction. He noted they recently received \$15,000 from a local gentleman to do a strategic plan, so they'll be eligible to apply for federal funding to rebuild one of the engines next year.

5. **Ordinance No. 913-B, First Reading – Amending the 2013 Budget.** Ms. Lindgren reported the budget amendment was being driven by the city's grant activity and pool renovation project. She reviewed the expenses and grant funding for the pool project, noting there would be a lot of timing issues with what is spent and received before the end of the year.

Ms. Lindgren reported on the FEMA Elevation Project, noting when they put the original budget together they anticipated they would be half way through the grant in 2012, which did not happen. She noted the budget amendment would increase the appropriations and the related revenues to reflect the entire grant being done in 2013.

Ms. Lindgren talked briefly about the \$500,000 transfer increase, noting it was basically being done to deal with cash flow.

Councilor Taylor moved to pass Ordinance No. 913-B on first reading.

The motion was seconded by Councilor Lund and carried unanimously.

6. **Executive Session.** Mayor Ketchum closed the regular meeting at 5:48 p.m. and announced the council would be in executive session pursuant to RCW 42.30.110(1)(i) – potential litigation for approximately 15 minutes and there would be no decision following conclusion of the executive session.

Mayor Ketchum closed the executive session at 6:08 p.m. and there being no further business to come before the

October 14, 2013

council, the meeting immediately adjourned.

Mayor

Attest:

City Clerk

SUGGESTED MOTION

I move that the council approve the minutes of the regular city council meeting of October 14, 2013.