

July 11, 2016

The Chehalis city council met in regular session on Monday, July 11, 2016, in the Chehalis city hall. Mayor Dawes 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 Tony Ketchum. Staff present included: Merlin MacReynold, City Manager; Bill Hillier, City Attorney; Judy Schave, City Clerk; Randy Kaut, Deputy Police Chief; Judy Pectol, Finance Manager; Trent Lougheed, Interim Community Development Director; Rick Sahlin, Public Works Director; and Dave Vasilauskas, Water Superintendent. Members of the media included Justyna Tomtas from *The Chronicle*.

1. **Citizen's Business.** Virginia Baldwin (350 SE Washington Avenue) stated she had concerns about fireworks going off well before the holiday and late at night. She proposed that the council put a curfew of 11:00 p.m. for shooting off fireworks, and also suggested they include a substantial fine for those who shoot them off after that time.

Mayor Dawes stated, for the record, the city also received a letter from Patty Ward (472 SW 14th Street) with a similar request. He reported it's very difficult for two or three patrol cars to catch up to everyone shooting off fireworks. Mayor Dawes reported the laws that govern fireworks are by the state statutes, which the city has adopted by reference. He asked City Attorney Hillier if the city could restrict it further than the state statutes.

City Attorney Hillier reported the city has the ability to restrict the number of days authorized for fireworks to go off, but it would need to be done before the end of the year.

Mayor Dawes suggested the council have a work session to discuss how to address the issue.

Councilor Pope stated he appreciated Ms. Baldwin bringing this up, adding he had similar concerns.

2. **Approve City Manager Employment Agreement.** City Manager MacReynold reported the agreement before the council includes the elements the council wanted to see for the future city manager.

Councilor Ketchum moved to approve the City Manager Employment Agreement between the city and Tracie "Jill" Anderson.

The motion was seconded by Council Lund and carried unanimously.

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

- a. Minutes of the regular meeting of June 27, 2016;
- b. Claim Vouchers No. 116073-116251 in the amount of \$164,785.18 dated June 30, 2016; and Payroll Vouchers No. 38892-38979, Direct Deposit Payroll Vouchers No. 7230-7324 and Electronic Federal Tax Payment No. 161 in the amount of \$786,699.30 dated June 30, 2016;
- c. Adopt Resolution No. 16-2016 on first and final reading setting the date and time of July 25, 2016, at 5:05 p.m. for a public hearing on the intention to establish a Tourism Promotion Area; and
- d. Award the bid for the Redundant Flocculation Basin Project to Prospect Construction, Inc., in the amount of \$1,204,349.04 and authorize the city manager to execute a contract agreement for the same; and authorize the city manager to execute Amendment No. 1 with HDR Engineering, Inc., in the amount of \$117,000 to provide additional engineering services required for the Redundant Flocculation Basin Project.

The motion was seconded by Councilor Pope and carried unanimously.

4. **Council Reports.**

a. **Update From Councilor Pope.** Councilor Pope reported, last year, they started providing breakfast to displaced students once a month at the Chehalis Eagles. He stated once school starts, they're going to try to start having breakfast every Sunday morning for these kids, noting they currently have about 163 students in the district that are displaced.

July 11, 2016

b. **Update From Councilor Lund**. Councilor Lund reported he attended a Chehalis Parks Committee meeting with Councilor Pope earlier in the day to talk about the Recreation Park Improvement Project.

c. **Update From Councilor Taylor**. Councilor Taylor reported he had a couple of people talk to him about the old Thurman's building on Kresky Avenue, noting there appears to be an issue with garbage in the back, as well as a rat problem. He noted he referred them to the city's code enforcement department.

d. **Update From Councilor Ketchum**. Councilor Ketchum reminded everyone about the Seattle to Portland bike ride this coming weekend and asked everyone to be careful.

e. **Update From Mayor Dawes**. Mayor Dawes reported he had been exchanging emails with an individual regarding the 'park and ride' at Main Street. The individual stated he found a deed indicating the property is owned by the city and not the state. Mayor Dawes reported if this is the case they need to come up with an ordinance, or something, to make sure it stays a 'park and ride,' adding there have been several complaints about someone staying there permanently.

Mayor Dawes suggested the Code Enforcement Officer also stop by 4th Street and Market Boulevard, noting the grass and weeds are getting pretty tall.

5. **Ordinance No. 959-B Second and Final Reading – Amending Section 5.04.120 of the Chehalis Municipal Code Dealing with Special Licenses (Mobile Ice Cream Vendors)**. Councilor Spahr moved to pass Ordinance No. 959-B on second and final reading.

The motion was seconded by Councilor Pope and carried unanimously.

Councilor Ketchum made a request that the individual that's driving the ice cream truck around town be contacted to make sure he's legal.

6. **Ordinance No. 960-B, First Reading – Amending Ordinance No. 956-B, Limiting the Number of Indoor Cannabis Production and Processing Facilities and Placing Requirements for Odor Control**. Councilor Ketchum moved to pass Ordinance No. 960-B on first reading.

Councilor Spahr seconded the motion.

Mayor Dawes reported when the original ordinance passed it limited the number of retail operations to two, and it was thought that it also limited the number of grow and production/processing facilities to two. He noted he had the administration do some research and it appears there was no mention of limiting the number of production facilities to two.

Mayor Dawes reported they had some individuals attend the last council meeting who stated they did not want to have any production facilities in Chehalis, and asked the council to reconsider the ordinance and limit the number of these facilities.

Mayor Dawes stated the council is not under any obligation to take citizen input, but thought it was important that they hear from the citizens before taking any action. He reported the concerns brought up at the previous meeting were odor, security, and property values. Mayor Dawes asked those who wished to speak to limit their time to three minutes.

Jeremy Wildhaber (Jeremy's Farm to Table) reported he owns a building on State Avenue that he put up for lease after his financial situation changed. He noted the industry that's exploding right now is marijuana and those are the only people who came to look at the building. Mr. Wildhaber reported the tenants have put thousands of dollars into the building and had everything looked at and permitted by the city.

Mr. Wildhaber provided a petition signed by 35 of the business owners along State Avenue agreeing that marijuana growers, processors, and distributors are a legal business in the State of Washington. He talked briefly about the myths behind this type of industry, as well as property values. Mr. Wildhaber stated, unbeknownst to many people, there is a legal grow operation on State Avenue in a building near his fruit stand, adding nobody knew about it because there's no smell, or advertising of what it is.

July 11, 2016

Pam Fuller (776 Coal Creek Road) stated she hoped the city was not changing their mind, or having a change of heart. She noted everyone involved has invested a lot of time and money into this. Ms. Fuller stated, contrary to what a lot of people think, there are not a whole lot of out-of-towners moving in to do this business. She hoped that the council would reconsider, noting there are all kinds of businesses that are targeted for problems and asked that the council give them a chance.

Andre Pilon (11904 Champion Dr. SW) reported he owns and operates Green Brothers Farms in Tenino. He stated it's very difficult to find areas properly zoned and property owners that will consider leasing to them. Mr. Pilon stated the whole purpose of initiative 502 was to get marijuana out of the black market, which is exactly what it's done. He reported the odor issue can be easily mitigated by using carbon filters and/or ozone generators. Mr. Pilon reported property values have actually increased in some areas, including a location in Tumwater that has three producer/processors and one additional processor. He noted the value of that particular piece of property has gone from \$1.58 million to \$2.2 million.

David Kois (2431 Westwind Drive) reported he owns CBD Management LLC located at 420 Alaskan Way NE and he's been working to get licensed by the state for the last three years. He noted he's spent the last nine months and a substantial amount of money refurbishing his facility and is only waiting on the final inspection to begin operations. Mr. Kois reported he's done everything the city has asked of him, including going in front of the Hearings Examiner and obtaining a conditional use permit, and now a week before he's to be licensed by the state, the city is trying to limit the number of producers and processors to one. Mr. Kois reported the council had the ability to ban or limit the industry when they passed the zoning back in April. He stated he relied on the ordinances that the city had in place when he decided to move forward, and as such, is vested both by state law and city ordinance.

Mr. Kois stated back in January when the council adopted their vesting ordinance, they also had an update from staff on I-502. He noted at that meeting they discussed limiting the number of licenses to one and the city attorney specifically noted he, Mr. Kois, was vested and the city had the ethical responsibility to see his application through. Mr. Kois stated not only does the council have the ethical responsibility to see his and the other vested applications through, they also have the legal responsibility to do so. He noted the council doesn't limit other businesses within the city, in fact, the city's municipal code prohibits employees or officers of the city from denying licenses simply because they believe there are too many of one particular type of business in the city. Mr. Kois asked that the council go back and revise the ordinance to at least reflect those that are vested before moving forward.

Summer Chapman (2725 US Hwy 12) reported she and Gabe Koth, co-owners of Wild Mint LLC, submitted an application for one of the businesses at 1132 NW State Avenue. She noted they are a Tier 1 marijuana producer/processor that produces rosin, which is a marijuana concentrate that is extracted through heat and pressure. Ms. Chapman stated they will also focus on a small line of infused salves and balms, as well as provide a line of hand crafted local and organic products to a consumer that chooses to use marijuana as either their recreational option, or for an alternative in their holistic or naturopathic medicinal needs. She reported they've followed every law, rule and regulation put forth by the state, county and city, adding safety is of the utmost importance to them and their small business.

Stacey Richards (9830 Lathrop Industrial Drive) reported his business, Doc Crock LLC, is the fourth largest processor and producer in Washington State. He noted they are looking at setting up a concentration laboratory in one of Mr. Wildhaber's buildings that would employ 15-20 people. Their main product focus will be medical concentrates for cancer and HIV patients to be sold through Old Tobey's and the new medical store. Mr. Richards reported they've been working on the licensing process for the last month and were told that everything was fine until last week when he was told the city wouldn't accept his application. He addressed the odor issue, noting if you use carbon filters you won't smell anything. Mr. Richards suggested crime has decreased since I-502 has come in and property values have increased. He noted their application is not for growing, but for a laboratory.

Colomba Tsang, owner of Chiliwist Creek Farm, reported she submitted an application for 1132 NW State Avenue. She talked about the safety concerns noted at the previous meeting and the security systems they recently installed at their business location. Ms. Tsang reported she did her due-diligence and worked with the city's planning department to make sure she complied with city code. She noted their facility would have an indoor sealed system with carbon filters in every room. Ms. Tsang reported she is here to work with the community and if there are additional complaints, she is willing to add additional filters, ozone generators, and UV lights to help with the odor. She indicated she's run a medical facility in Tacoma for many

July 11, 2016

years and has had zero complaints and zero crime. Ms. Tasang suggested the council might be jumping the gun by assuming bad things are going to happen simply because it's a new business.

David Faulk (12315 34th Avenue E, Tacoma) reported he and his wife own the Green Vault. He noted the reason they came to Chehalis (365 NW State Avenue) is because the cost for rent and power is much cheaper here than in Tacoma. Mr. Faulk addressed the recent complaints regarding the odor, noting they worked with the city and installed some carbon charcoal filters, adding the city has been out twice to inspect the facility and said they're fine. He noted there's no odor unless the door is open and suggested if there are further issues they are willing to work with the city to be compliant. Mr. Faulk reported King Beverage recently moved out of the building and they are looking to expand into that area. He noted they've signed a lease with the option to buy; they've purchased the licenses, and look to hire 55-70 people at that site. Mr. Faulk noted he did not speak at the council meeting on March 28, because the council was only looking at limiting the number of retail stores.

Pastor Keith Heldreth (3323 Jackson Hwy) talked briefly about the morality issue of what he's seeing. He stated just because the state made a law doesn't necessarily mean it's good for us, or that we have to come under the power of that law. Pastor Heldreth suggested the council has the power to enact laws at the local level to stop this, and it's imperative that they do. Pastor Heldreth talked briefly about a member of his church who spent 18 years incarcerated, primarily for drug offenses. He noted they've had many conversations about the issue and it's his belief that most drug offenders started out with marijuana and moved up from there. Pastor Heldreth didn't want to see this type of business in the State Avenue neighborhood.

Amanda Hubbert (1283 NW State Avenue) reported she's a fourth generation employee of a family business on State Avenue that's been there for 62 years. She stated she came back to Chehalis to raise her family and believed, as a young professional, there are a lot of young people doing some really good things. Ms. Hubbert suggested this is not good for their business, noting they're an open-air work facility and they cannot guarantee there will be no odor. She noted they can smell the current grow facility down the street on a daily basis and their customers mention it when they walk through the door. Ms. Hubbert believed this new business will really hurt their retail sales, adding customers and employees don't want to smell that odor. She stated just because someone applied for a permit doesn't mean the city has to grant it. Ms. Hubbert asked the council to think about the next generation and the young professionals that have come back to this great city.

Mark Giffey (1214 NW State Avenue) asked if there is an odor compliance statute in the city of Chehalis for marijuana production.

City Attorney Hillier stated there is currently nothing, but part of the proposed ordinance will cure that problem.

Mr. Giffey asked, "What is going to be in the odor control ordinance and what will the teeth behind it be?" He noted they lived through last summer with the whole street smelling bad, adding he appreciated the Mr. Faulk's investment to make the odor decrease. Mr. Giffey stated he didn't want it to become a situation where the cost of doing business is paying a fine to the city because it's cheaper to pay the fine than it is to install the necessary equipment that will make it odor-free at the property line of the business. He reported he wants to be a good neighbor and wants them to be a good neighbor too. Mr. Giffey suggested they can't dispute the fact that the production of marijuana does produce a very distinct odor. He noted he's all for creating jobs, and because it is a legal business and he has no problem with that. The bottom line is, it smelled badly in this community all of last summer.

Mayor Dawes asked Mr. Giffey if the odor could be controlled, would that take care of his concerns.

Mr. Giffey stated he didn't ever want to smell it. He suggested if there's technology to make it odor-free, permanently, and they would never smell it, he really wouldn't have any complaints.

Pat Sauter (436 NW State Avenue – National Frozen Foods) stated he felt the biggest challenge the city will have is dealing with a new industry that isn't regulated like National Frozen Foods is. He suggested the retail and production facilities don't have to comply with federal laws, or state agencies, such as the Department of Ecology, the Environmental Protection Agency, the Department of Transportation, and Southwest Washington Air Pollution Control. Mr. Sauter assured the council that the retail business across the street from National Frozen Foods does have riff-raff walking up and down the street intoxicated. He reported they drive, walk, and get in the way of their equipment and they have to constantly police them. Mr. Sauter stated it's going to be up to the city council to regulate it until the state catches up with them and the feds get involved.

July, 11, 2016

He noted National Frozen Foods discharges a lot of things and all of those things have to be permitted. Mr. Sauter suggested if a company is manufacturing something they're discharging something.

Councilor Ketchum noted his company got in trouble with Southwest Washington Air Pollution Control over a mint odor. He suggested they're there, they just don't regulate everything.

Mayor Dawes thanked everyone for coming, adding he understands there are various thought processes on the issue. He noted Chehalis is a very conservative community and folks just don't want it, but we have to deal with it. Mayor Dawes suggested had the state brought it to be, there probably would have been regulations, but the state was only interested in the money they would make and left it to the local jurisdictions to deal with.

Councilor Ketchum inquired about the current applications wanting to know if they are vested.

City Attorney Hillier reported anyone who made application to the city for the right to locate in this area, and the city signed off approving it, are vested. He suggested the council could hire an attorney to litigate the issue, but it's his opinion that those are vested permits. City Attorney Hillier stated, regardless of what the council does today, the city does not have the power to stop them once they've been approved by the state process and have met the requirements of the city.

Councilor Taylor thought Mr. Sauter brought up some pretty good points about regulations. He wondered if the city had any regulations regarding discharge in its ordinances.

City Attorney Hillier reported the city doesn't have any knowledge as to the discharges from these facilities, other than odor, but the state has some stiff regulations on the removal of the bi-products of marijuana. He stated between the first and second reading they can beef up the ordinance to say they would immediately be shut down if in fact there is a violation.

Councilor Taylor noted he has family members in California that are involved in this industry and have huge warehouses for manufacturing and production. He suggested if you drive by it you wouldn't even know the type of business they have there. Councilor Taylor suggested they look at enlisting the knowledge of someone who knows the business to make sure our regulations are what they need to be.

Councilor Harris reported the council really doesn't know much about the industry, or what the future impact will be to the environment, adding all he's seeing is the leaps and bounds by the industry that the council is trying to regulate.

Councilor Spahr thanked everyone for the intelligent debate, noting some interesting facts were brought forth. He stated the people of Chehalis are extremely easy going and great to work with, noting most of the complaints we receive have to do with tall grass, weeds, and fireworks. Councilor Spahr reported one of the things they were promised is that there would be no odor, and the fact that we do have an odor issue on State Avenue is a problem with him.

Councilor Pope reported pain killers are the most common violated drug in our country, not marijuana. He stated marijuana is not a gateway drug, but pain killers are.

Councilor Harris noted some of his neighbors appreciate the fact that they can buy products from Old Tobey, but they don't like the fact that their property values are dropping. He noted some are trying to sell their homes and are having issues with finding interested buyers with the odor in the air. Councilor Harris suggested if they can take care of the odor it would help the situation a lot.

Mayor Dawes asked the administration if the odor issue had been addressed.

City Manager MacReynold believed it had been. He noted the city required an air filtration system to be installed at the production facility and believed the odor went away, but from what he's hearing tonight, that may not be the case.

Councilor Harris stated its much better, but it's still there.

Councilor Spahr asked what caused the odor in the processing.

July 11, 2016

Mr. Faulk reported when the plants flower they omit an odor. He stated the ozone generators will completely knock it out, but unfortunately, it also takes away the smell from the product, which a lot of the people who use marijuana like.

Councilor Taylor asked if the city had specific filtration requirements for buildings being built.

City Manager MacReynold stated no, they only required it to deal with the specific situation. He suggested, if the council gives direction, the administration will beef up the requirements around odor control for these types of facilities.

Interim Community Development Director Trent Lougheed reported when the odor issue was originally brought up the business was notified and they put in the recommended charcoal filter system. He noted he paid a visit and walked around the building before going inside and smelled no odor; however, as soon as they opened the door the smell came out. Mr. Lougheed suggested a charcoal filter system inside the breezeway between the two doors would probably eliminate any smell when the door opens.

Mr. Sauter reported when they turn their fans on it pulls the air down into their plant and they still smell the odor.

Mr. Wildhaber reported the state is not issuing more licenses. He noted people had to have a location by June 1, 2016, and if they didn't they lost their license.

Councilor Harris asked if the tenants had to sign leases before they were permitted by the state.

Mr. Wildhaber reported they had to have a lease in place before the state would look at their application.

Councilor Pope stated it's his understanding that the city is not giving out any more licenses, regardless if they have a location.

City Attorney Hillier reported the direction from the council is to stop accepting applications for new licenses until we get the matter resolved. He noted in the resolution process it's his opinion that the city needs to honor the ones we've approved, but we're not taking any new applications right now.

Councilor Taylor asked if that stopped the laboratory business from coming in.

City Attorney Hillier stated, yes.

Mayor Dawes stated if the council takes the direction to agree with the city attorney's position, that these licenses would be vested, they could still limit it to one. He noted as the processing facilities go out of business, for whatever reason, there would still be a limit of one and the city could legally say we're not taking applications, or allowing anymore.

City Attorney Hillier stated that's true, as well as the fact that he's only one attorney. He suggested the council could direct the city to not accept his position and hire an attorney to fight it, but that's the council's choice.

Mayor Dawes reminded the council that they have a motion on the floor to pass Ordinance No. 960-B in its current form.

Councilor Harris stated he would like to make a couple of amendments to the ordinance, to include:

- Add to Item #15 the words "and Federal requirements"
- Add to Item #16 the words "any violation of odor control shall cause the business to immediately cease operations until such time the operator demonstrates compliance"

Mayor Dawes didn't believe they could add the word "Federal" to the ordinance.

City Attorney Hillier reported it's the intension of the administration between first and second reading to beef the odor requirements up, which could include the requirement of ozone generators.

July 11, 2016

Councilor Harris stated he would also like for the licenses to not be transferrable.

City Attorney Hillier reported they can sell it, but they're going to have to get licensed under a new name. He noted they would also have to be able to obtain a new license, which the city could turn down if they limit it to one facility.

Councilor Harris moved that the council direct the administration to include language in the ordinance pertaining to odor control.

Councilor Ketchum stated he would first like to see what the attorney brings back in two weeks.

The motion died for a lack of a second.

Mayor Dawes stated he believed the administration will be able to meet what Councilor Harris is looking for and that everyone is on the same page as far as the odor issue.

Councilor Pope asked, "If they're going to limit it to one, shouldn't there be a statement in the ordinance allowing the four that are vested?"

City Attorney Hillier stated it's a known fact and didn't feel it needed to be in the ordinance. He recommended they not put it in there.

Mayor Dawes asked what would keep someone from arguing the limit if there's no mention of it.

City Attorney Hillier stated "vested" is defined as having a signed permit from the city approving the license, and there are only four of those. He suggested they could include language in the "Whereas," section of the ordinance to address it.

City Manager MacReynold reported you don't want to codify a statement about vesting. He agreed with City Attorney Hillier that they could add a "Whereas," making it clear to anyone looking at the ordinance that the city would accept the current vested applications.

Councilor Ketchum asked if it wouldn't be better to wait and vote on it after the amendments are made.

Councilor Ketchum moved to withdraw his motion, adding he would like to table the item until they have a clean document in front of them.

Councilor Spahr moved to withdraw his second.

City Manager MacReynold stated, if they table it, the administration will bring back an ordinance with the changes as discussed, but it would still require a second reading.

City Attorney Hillier stated the council could declare an emergency and pass it on one reading at the next meeting.

City Manager MacReynold suggested the council approve the ordinance, as amended through the discussion, and bring it back at the next meeting for second and final reading.

Mayor Dawes reported he wants to make sure they do it correctly and not rush through it. He stated he was under the assumption that they can make suggested changes and pass it on first reading, as amended.

Councilor Ketchum moved to pass Ordinance No. 960-B on first reading with amendments to the nuisance of odor, that it be defined in a stricter manner, and add a subtitle "Whereas," stating the four individuals are vested under the city permitting process.

Councilor Pope seconded the motion.

July 11, 2016

City Manager MacReynold reminded the council that they have two other businesses that have sought applications. He asked if those were part of an existing address, or if they were new addresses to the applications we currently have.

City Attorney Hillier felt the city would be setting a terrible precedent if they accept applications that have not been presented yet and recommended against including those.

Councilor Lund reported, in listening to Rev. Heldreth, it almost sounded like his parents talking. He noted it made him start thinking and wondering if they really want to change what Chehalis is like. Councilor Lund stated change is good, but it's kind of hard to go against something that you were raised to believe, that you shouldn't really be doing.

Councilor Lund moved to amend the motion to include the words "and Federal" to #15 of the proposed ordinance.

Councilor Taylor seconded the motion.

The motion failed 3-4, with Councilors Harris, Pope, Ketchum and Mayor Dawes voting against the motion.

Mayor Dawes stated his vote is based on the fact that they wouldn't be able to vest anything and it would go against the ordinance they already have on the books.

Mayor Dawes restated the motion on the table to pass Ordinance No. 960-B on first reading, as amended, to include a new "Whereas," to address the four current vested applications, and to address Item #16 regarding the regulation of odors.

After a brief discussion about odor control, Councilor Pope called for the question.

The motion carried 4-3 with Councilors Harris, Taylor, and Ketchum voting against the motion.

Councilor Taylor stated the odor issue is very important and they need to address it to make sure they don't cause any harm to the businesses they locate next to. He noted the other reason he voted against it is because he believes in capitalism and the market should determine the amount of businesses that are here, not laws and regulations.

7. **Executive Session.** Mayor Dawes closed the regular meeting at 6:50 p.m. and announced the council would convene into executive session for approximately 30 minutes pursuant to RCW 42.30.110(1)(d) – review negotiations on the performance of public bid contracts and there would be no decision following conclusion of the executive session.

Following conclusion of the executive session, the regular meeting was reopened at 7:20 p.m., and there being no further business to come before the council, the meeting was immediately adjourned.

Mayor

Attest:
City Clerk

SUGGESTED MOTION

I move that the council approve the minutes of the regular city council meeting of July 11, 2016.