

December 12, 2016

The Chehalis city council met in regular session on Monday, December 12, 2016, in the Chehalis city hall. Mayor Dawes called the meeting to order at 5:00 p.m. with the following council members present: Daryl Lund, Dr. Isaac Pope, Bob Spahr, and Chad Taylor. Councilors Terry Harris and Tony Ketchum were absent (excused). Staff present included: Jill Anderson, City Manager; Ken Cardinale, Fire Chief; Caryn Foley, City Clerk; Bill Hillier, City Attorney; Judy Pectol, Finance Manager; Rick Sahlin, Public Works Director; Glenn Schaffer, Police Chief; Judy Schave, Human Resources/Risk Manager; Dave Vasilauskas, Water Superintendent; and Lilly Wall, Recreation Manager. Members of the media included Justyna Tomtas from *The Chronicle*.

1. **Citizens Business.** Mr. Dale Luger (344 River Heights Road, Centralia) addressed the council on November 14 about the purchase of a home at 581 NW Quincy Place at a trustee sale and three days later found out he was responsible for over \$6,100 in back water/sewage bills. His complaint was that the city did not record a lien against the property, so he was unaware of the charges.

Mr. Luger stated the public works department and community development department provided him a copy of Chehalis Municipal Code 13.04.230. He asked Mr. Hillier what RCW the city code was based on. Mr. Hillier stated the city code does not need to be based on an RCW, and the city does not lien properties. The city first shuts off utilities for nonpayment and then in four to six months or so, disconnects service, which means a person no longer has a right to utilities. A person must then apply for and pay for reconnection, which is about \$7,000. City ordinance provides an alternative to either charge the unpaid back charges for the period of time the service was disconnected versus the cost of a reconnect, whichever is less. In Mr. Luger's situation, it was less to pay the unpaid base charges.

Mr. Luger recalled that at the November 14 meeting, Mr. Hillier said the city's process was thoroughly reviewed and approved by somebody, and he assumed the city was following the lead of the state. Mr. Hillier reiterated the RCWs provide alternatives for the city to use – go the lien route or pull the connection completely from the system.

Mr. Luger asked if Mr. Hillier was saying the city ordinance was not based on a RCW. Mr. Hillier explained the city ordinance is based on Washington law and the ability of the city to make choices.

Following the November 14 meeting, Mr. Luger confirmed that other cities in Washington operate the same way, as indicated by Mr. Hillier. At that same meeting, Mr. Hillier stated that purchasing a litigation title guarantee would inform someone to check with local jurisdictions for unrecorded liens, and if he would have done that, he would not be in this situation. Mr. Luger stated he was seriously offended by Mr. Hillier's comments. Since November 14, Mr. Luger stated he has done a lot of research. Thurston County provides a litigation guarantee title policy, but nowhere on the document does it note that a person should check with a local jurisdiction about unrecorded liens. Mr. Luger provided the document to the council. Mr. Luger contacted both Title Guaranty and Lewis County Title as to whether their litigation title policies included unrecorded liens and was informed that they do not.

Mr. Luger met with Ms. Anderson and Mr. Hillier as recommended by the city council. Ms. Anderson stated the city would seriously consider recording liens in the future when the meter is disconnected from the house, but she did not have the authority to refund Mr. Luger for the back charges. Although he does not like the outcome of the meeting with Ms. Anderson, he stated he was impressed with her professionalism and compassion, and commended the council for hiring her. Even though he already knew the answer, he stated he asked Mr. Hillier two times during the meeting if he would have been protected by the litigation policy. Both times Mr. Hillier stated yes.

Mr. Luger stated Mr. Hillier does not know the RCW that the city ordinance is based on; however, he made a discovery. RCW 35.67.200 states that cities and towns owning their own sewage system shall have a lien for delinquent and unpaid rates and charges for sewer service. RCW 35.67.210 provides for a sewage lien notice, and provides that the lien shall be effective for a total of not to exceed six months' delinquent charges without the necessity of writing or recording a lien. They even write the letter for you to record a lien if the charges go over six months. RCW 35.67.215 says cities may create an ordinance whereby they don't have to record a lien unless it goes over one year. The city is doing none of these things.

Mr. Luger stated he's spent well over 100 hours researching and preparing statements. He sold the property at a financial loss because he chose not work with a city that wouldn't make every effort to make right a very obvious wrong. He

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asked the city to immediately implement a procedure that complies with state law, and inform other cities to ensure they comply with the RCWs. He also asked that he and his wife be issued a refund immediately.

Following the November 14 meeting, City Manager Anderson stated the city's policies were reviewed to see if there was a way to address the issue of it being more transparent for the public. She and Mr. Hillier talked about the option of adding a lien at a certain point in the process, namely after a meter is pulled. Based on the information presented by Mr. Luger today, staff will go back and review city codes, and if corrections are needed they will be brought to the city council.

Mr. Hillier apologized to Mr. Luger for any offense he has felt; however, he stated Mr. Luger was misstating the law and the facts as this situation is not a lien issue. The city chose to do what they have a right to do. The city owns the utility and if somebody gets behind, the connection is pulled, and it is no longer a shutoff situation. The city would use liens if it was a shutoff situation. The city pulls the service, which means that property has no rights to utilities in the city. They have to reconnect at \$7,000 as provided in the ordinance. Mr. Hillier stated that if the city has to go to litigation it will do that.

Councilor Pope appreciated the work done by Mr. Luger. It was his understanding that Mr. Luger paid the lesser of the back charges or the new connection fee. Mr. Hillier indicated that was correct. Councilor Pope understood that Mr. Luger wanted to see things better in the future, but as far as he was concerned, the problem was resolved.

Councilor Taylor asked if there was service to the property. Mr. Hillier stated the meter was pulled and service was disconnected.

Mayor Dawes asked Mr. Luger what his response would have been if the city didn't use the current policy and Mr. Luger would have had to pay a \$7,000 connection fee. Mr. Luger stated he couldn't say because that has never happened, but he couldn't imagine it costing \$7,000 to put a meter back in. He stated what he was hearing was that he should be thankful that he only had to pay \$6,100 versus \$7,000. He stated the city could use whatever terms it wanted, but the city should be recording a lien. He hoped the council would make a just decision because he believed that deep in their hearts they were thinking he had been screwed.

Mayor Dawes took offense that the city would "screw" anyone. The city operates under the framework of the law. Staff looked into the complaint, and will look into the additional information today. If there are adjustments that need to be made to comply, the city will comply with state statute. Mayor Dawes added there are more laws than just the ones cited by Mr. Luger, and to expect Mr. Hillier to cite an exact one is unfair to say the least. Mr. Luger stated that since this was an active situation, he thought that would have been done. He requested that as soon as it is determined which RCW is used as a basis for the city ordinance that he receives a copy.

## **2. Special Business.**

a. **Chehalis Community Renaissance Team.** Annalee Tobey, Chair, and Andy Skinner, Vice Chair of the Chehalis Community Renaissance Team (CCRT) spoke about the Main Street Business & Occupation (B&O) Tax Incentive Program. Ms. Tobey distributed a brochure about the program. Chehalis became a Main Street community in the spring of 2014, which operates under the State Department of Archeology & Historic Preservation. As part of the Main Street Program, the CCRT is eligible to take advantage of the B&O Tax Incentive Program, which allows businesses/municipalities that pay state B&O tax to redirect a portion of those taxes to a Main Street Program of their choice versus sending those funds to Olympia. Last year was the first year the CCRT received funds, which totaled \$58,000, \$55,000 of which came from the city of Chehalis.

Mr. Skinner provided a brief explanation of how the tax incentive program works and how to make a contribution. Essentially, businesses receive a 75% tax credit the following year of their contribution. The remaining 25% is a charitable donation to the CCRT. Additionally, 100% of the donation given counts as a 501(c)3 donation, although he suggested that businesses check with their accountants to confirm. It's a great way to keep your dollars in Chehalis for projects that benefit our city.

Ms. Tobey stated the program is very competitive. Each of the 40+ Main Street communities are eligible to receive \$133,333 each year; however there is a \$1.5 million dollar cap on the program, which does not allow every city to receive their

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full amount of funding each year. Last year, the cap was met extremely quickly compared to prior years and they expect it to be reached even sooner this year. All funds were spoken for by January 4, so some CCRT members will be poised to “hit the donation button” at 12:01 am on January 1. Councilor Taylor asked if businesses could give them their login information and amount they would like to pledge. Ms. Tobey stated that would be possible. Mr. Skinner added they would prefer that businesses make the donation on their own, since it involves confidential information, but if they are comfortable, they would be happy to do that if necessary.

b. **Chehalis Foundation Update.** Foundation President Tim Saylor provided an update on the group’s efforts. Mr. Saylor stated most of their efforts have revolved around the Student Achievement Initiative in the Chehalis Schools to raise college graduation rates by Chehalis kids. That effort has been going on for three years. Orin Smith and Jim Lintott donated \$1 million dollars to the initiative and have challenged the Foundation to raise \$500,000 in addition to their \$1 million. Donations can be made through the Foundation’s website. The other half of the Foundation’s efforts revolve around city works. The Foundation was largely responsible for the Lintott/Alexander Park renovation, the Gail & Carolyn Shaw Aquatics Center, the Rhodes Spray Park, K9 unit support, and holiday decorations. Their latest request from the city was to assist with the enhancement of Recreation Park, and he was pleased to tell the council that through the Chet and Mary Ingwersen, the Foundation will commit \$400,000 to the park project to be focused on ballfields.

Mayor Dawes stated there have been issues with the new Aquatics Center and thought at the time it was built that there were supposed to be funds set aside for maintenance, but questioned whether some of the issues shouldn’t still be under warranty. Mr. Saylor recalled there is around \$12,000 earmarked to assist. He thought some issues have been taken care of and agreed they probably could have or should have been under warranty.

c. **New River App.** Lewis County Commissioner Edna Fund distributed the 2016 Flood Bulletin that Lewis County Emergency Management put together. She also encouraged everyone to sign up for Lewis County Alert to be notified of emergency situations. Commissioner Fund introduced Steve Wohld and Mitch Guthrie with the Lewis County IT Department to talk about the new app. Mr. Wohld stated the updates to the river app include developing more of a dashboard interface for citizens to quickly and easily see what the rivers are doing and how they might be impacted. Mr. Guthrie demonstrated how the app works and how to view the available information. He stated the information is also located on the county’s website.

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

- a. Minutes of the regular meeting of November 28, 2016, and special meeting of December 5, 2016;
- b. November 30, 2016 Claim Vouchers No. 117593 – 117715 in the amount of \$383,915.45; November 30, 2016 Payroll Vouchers No. 39268 – 39308, Direct Deposit Payroll Vouchers No. 7709 – 7804, and Electronic Federal Tax Payment No. 166 in the amount of \$714,653.12;
- c. Drinking Water State Revolving Fund Contract Amendment for the Redundant Flocculation Basin Project; and
- d. Interlocal agreement to provide fire investigation services to the City of Vader.

The motion was seconded by Councilor Taylor and carried unanimously.

4. **Administration Reports.**

a. **City Manager Update.** City Manager Anderson stated there was a question about the airport bond payment and whether or not the county was obligated to pay the city on a semi-annual basis on any interest generated on that money. Mr. Hillier and Judy Pectol reviewed the agreement and found that there was no obligation to pay it, except that the city was fully refunded at the end of the bond term.

b. **Consider Cancellation of December 26 City Council Meeting.** City Manager Anderson stated the next scheduled meeting of the council is December 26 and in light of tradition and most of the community being focused on family and holiday festivities, she proposed cancelling the meeting.

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Councilor Spahr moved that the council cancel the December 26 regular meeting. The motion was seconded by Councilor Pope and carried unanimously.

c. **Transportation Benefit District (TBD)**. City Manager Anderson stated staff will be providing information to the public regarding the TBD so that members of the public have information about what that means and so they can make an informed choice.

#### 5. **Councilor Reports.**

a. **Update from Councilor Pope**. Councilor Pope reminded everyone about the December 18 dinner at the Chehalis Eagles for the homeless and those that might be alone. He thanked Twin Transit for providing free service to and from the event. He also thanked everyone who has donated to make the dinner possible.

b. **Update from Mayor Dawes**. Mayor Dawes attended the United Way celebration on December 1 and the mayors' meeting on December 2. He found out at that meeting that the county apparently receives about \$100,000 in marijuana money towards their road fund, which is funny because the county has a moratorium on marijuana, while Chehalis has a couple retail stores and only receives about \$1,000 from excise taxes. He, Councilors Lund and Spahr, and City Manager Anderson have a monthly meeting with Fire District 6 on the 14<sup>th</sup>.

6. **Ordinance No. 966-B, Second and Final Reading – Amending the 2016 Budget**. City Manager Anderson stated one change has been made to the ordinance since first reading to provide for a \$26,000 adjustment for an upcoming retirement of a long-term employee in the Storm/Surface Water Fund.

Councilor Taylor moved to pass Ordinance No. 966-B on second and final reading. The motion was seconded by Councilor Lund and carried unanimously.

7. **Bonus Compensation for Exempt Employees Meeting Specific Criteria**. City Manager Anderson stated the item is to consider a policy to allow the city to have an additional tool to attract and retain management employees that might have specialized expertise. The policy would allow up to 15% compensation for those that hold professional engineering or certified public accounting licenses to provide an opportunity for the city to be more competitive in the marketplace. She stated the word "bonus" was used to comply with the provisions of the RCW. It would be used under very limited circumstances, and would ultimately save money by not having to utilize so many outside consultants. It would also provide value in having someone on staff readily available with a particular expertise.

Councilor Spahr moved to approve the personnel policy regarding bonus compensation for exempt employees. The motion was seconded by Councilor Lund.

Mayor Dawes stated he thought the term "bonus" could be looked at in completely the wrong way, but understood the word "bonus" is what was provided in the RCW. The intent is that the policy would save more money than whatever stipend is paid.

Councilor Pope commented on Mr. Luger's complaint. He thought Mr. Luger was very accusatory instead of asking if the council had come up with a solution, and he told the council what the solution should be. Councilor Pope commended Mr. Hillier for standing steady. He asked if the council could discuss a procedure for these types of situations. Mayor Dawes stated it was a fine line as to allowing citizens to speak and knowing when to cut them off, but he was willing to discuss the topic and do what the council wished.

The motion to approve the personnel policy carried unanimously.

8. **Executive Session Pursuant to RCW 42.30.140(4)(a) – Collective Bargaining**. Mayor Dawes announced that following a short recess the council would be in executive session for 15 minutes and no action would be taken following the executive session. Mayor Dawes closed the regular meeting and the council adjourned into executive session at 6:13 pm.

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The regular meeting was reopened at 6:16 pm, and there being no further business to come before the council, the meeting was immediately adjourned.

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Mayor

Attest:

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City Clerk