

March 28, 2016

The Chehalis city council met in regular session on Monday, March 28, 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, and Chad Taylor. Councilor Ketchum was absent (excused). Staff present included: Glenn Schaffer, Acting City Manager/Police Chief; Bill Hillier, City Attorney; Judy Schave, City Clerk; Dennis Osborn, Community Development Director; Judy Pectol, Finance Manager; Rick Sahlin, Public Works Director; and Patrick Wiltzius, Wastewater Superintendent. Members of the media included Justyna Tomtas from *The Chronicle*.

1. **Renewal of Solid Waste Disposal District No. 1 Interlocal Agreement.** Lewis County Public Works Director Tim Elsea reported the Interlocal Agreement that created the Solid Waste Disposal District is due to expire next year. Mr. Elsea provided a brief history on how the District came about and when the Solid Waste Utility Division was formed. He noted Councilor Harris has been through a lot of the history of the District and has served diligently on the Solid Waste Advisory Committee.

Mr. Elsea reported the tipping fees were originally set at \$95 per ton in 1994; however, a few years later they were able to lower the fee to \$82 per ton. He noted this dollar amount remained in effect until last year when they raised it to \$90 per ton, which is still lower than any community around us that doesn't have their own landfill.

Mr. Elsea reported the Joint Municipal Solid and Hazardous Management Plan had to be updated every six years, which was recently done. He talked briefly about the role of the Executive Advisory Committee and the Solid Waste Advisory Committee (SWAC).

Mr. Elsea reported the agreement continues to work well for all of the agencies involved. He noted he would be back before the council at a later date to present a new Interlocal Agreement that will extend the current agreement.

Councilor Pope asked Mr. Elsea if he plans to rewrite the agreement.

Mr. Elsea reported he hoped to just re-present it and not rewrite it

Mayor Dawes stated since it's working well he would hope that what they bring back will only be minor changes to the fees and not something that doubles the size of the current document. He suggested the city residents have benefited from the agreement, as well as the garbage contracts the city has been able to secure from our local vendor.

Mr. Elsea reported last year, for the first time, they were in the black by \$50,000. He noted this money will be put away in reserves for future capital projects.

Councilor Harris reported he's served on the Budget Review Committee for the SWAC and Disposal District. He noted it's a good group of folks that work really hard to get every dime out of the services they supply. Councilor Harris reported one of the reasons they were in the black was because the tonnage was more than what they anticipated. He noted staff has been very good at predicting from year-to-year what their tonnage will be. Councilor Harris stated Mr. Elsea works tirelessly and applauded him for the work he does with this particular part of his job.

Mr. Elsea promised the council they would not be surprised with the agreement he'll be presenting.

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

a. Minutes of the regular meeting of March 14, 2016, and the March 21 meeting notes from the joint meeting with the Board of County Commissioners;

b. Claim Vouchers No. 115133-115273 and Electronic Funds Transfer No. 22016 in the amount of \$213,983.39 dated March 15, 2016;

c. Ratify the city manager's execution of the termination notice for the Interlocal Agreement between the city, Lewis County and the city of Tacoma for the option to purchase a portion of the Tacoma rail line;

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d. Authorize city manager to execute the Engineering Services Agreement between the city and Gibbs & Olson for the Coal Creek Sewer Extension Project in an amount not to exceed \$62,350; and

e. Authorize city manager to execute an agreement between the city and the FCS Group for the Water and Wastewater Rate Study in the amount of \$53,005.

Councilor Taylor seconded the motion.

Councilor Pope reported he understood why the sewer line is being extended and that a grant would take care of most of it, but wondered who would be paying for the hookup fees once the residents are on the system.

Wastewater Superintendent Patrick Wiltzius reported he included the hookup fees in the grant that was approved, but didn't know for sure if the Department of Ecology (DOE) would be paying those fees. He noted if not, the county dedicated \$25,000 towards the project. He reported it still needed to be finalized who would be paying the connection fees.

Councilor Pope stated our citizens bought and paid for our system, so money should come back to the city to pay for those hookups.

Mr. Wiltzius agreed, noting it's not the city's intent to give those away.

The motion carried unanimously.

3. **Administration Reports.**

a. **February Financial Report.** Finance Manager Judy Pectol reported on the February financials, noting so far this year they've received \$80,013 in building permit fees, which exceeds the \$62,000 they received in 2015. She noted the first half of the property tax is not due until May 2, which means the city will not receive the money until June from those who pay their taxes at the last moment.

Councilor Spahr asked if the building permits came from inside the city limits, or from the Urban Growth Area (UGA).

Ms. Pectol indicated 62 percent came from the UGA.

Councilor Spahr suggested there might have been a rush to get permits in before the change in permitting took place with the county.

Ms. Pectol indicated she would be coming back to the council with a budget transfer request at the next meeting.

b. **Discuss Work Session for Recreation Park Project.** Community Development Director Dennis Osborn reported the Chehalis Parks Committee met earlier in the day to discuss the two meetings they had with the Chehalis School District. He stated if they can get the materials they need from the District they are hoping to have a special work session on April 4; but if they don't get the materials they would like to tag it onto the April 11 council meeting prior to the regular meeting. Mr. Osborn stated April 4 would be the preferred date.

Mayor Dawes stated Councilor Ketchum is unable to make it at 4:00, so it would need to be at the end of the regular meeting.

The special work session was set for April 4, at 5:00 p.m., unless the materials are not received.

4. **Council Reports.**

a. **Update From Councilor Taylor.** Councilor Taylor reported he helped out with the Easter Steam Train and Egg Hunt over the weekend, noting they had over 1,200 people show up to ride the train. He stated they added three additional

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trains and still had to turn people away. Councilor Taylor reported there were a number of people he talked with that traveled quite a distance to attend the event.

Councilor Taylor also reported there was a pot hole at the top of Winchester Hill that needed to be filled.

Public Works Director Rick Sahlin stated they would take care of it, but in the future residents can call and let the department know because they don't get up that way too often.

b. **Update From Councilor Lund.** Councilor Lund reported he attended two Park Committee meetings and the Joint Oversight Board meeting with Mayor Dawes and Councilor Spahr regarding the functional consolidation.

c. **Update From Councilor Harris.** Councilor Harris reported the Recreation Park meetings have been going very well. He noted some questions were brought to the Chehalis School District and they're currently in negotiations with them. Councilor Harris suggested as the meetings progress and information is received they will immediately get it to the council so they can start looking at things as a group.

Councilor Harris reported he attended the Chehalis Basin Partnership meeting last Friday, noting they received presentations regarding the water quality monitoring on the Chehalis River, upcoming TMDL effectiveness monitoring, and the study of the upper Chehalis River. Councilor Harris reported we've been out of the river for about nine years and they still don't know if things are getting any better.

Councilor Harris reported they also talked about DOE regulations that affect cities greater than 10,000. He noted once we reach that level we'll have to follow the same development regulations as Centralia regarding impervious surfaces and swales. Councilor Harris talked briefly about the Chehalis Avenue project and the swales that were put in to recycle the drainage water. He noted he inquired about the drainage from vehicles driving on the road, asking at what point and time does the dirt become so contaminated that we have to do something with it, and who will be responsible for it. Councilor Harris stated he knew the city would be responsible, but wanted to make a point about the Legislators having the ability to make regulations and have no idea what they are regulating, or deregulating.

Councilor Harris reported he also questioned unfunded mandates and was presented with a list of potential grants and low to zero interest loans to help pay for these things, if and when they do come up. He noted it's always an interesting dialog with ecology when they talk about how they're interacting with the cities and municipalities.

d. **Update From Mayor Dawes.** Mayor Dawes reported he attended a Business After Hours at the Tiki-Tap House in Centralia, sponsored by the Washington State Employees Credit Union. He noted on March 21 he and Councilors Lund and Harris attended the joint meeting between the city, Lewis County, and the Tacoma Rail Work Group, to discuss the option to purchase a portion of the Tacoma rail line. Mayor Dawes reported they're obviously not going to pursue it, but didn't want to close any doors either. He noted the concerns are still there, which is why they want to keep it on the back burner.

Mayor Dawes reported he also attended the Joint Oversight Board meeting with Riverside Fire Authority. He noted the joint agreement with Riverside regarding consolidation expired December 31, 2015, which was their cue to make a decision on whether they would start the process to annex into the Riverside Fire Authority, or step away. Mayor Dawes noted it was the opinion of everyone in attendance that, while there have been tremendous strides in education and training, the stars were not lined up to where it looked like it would be advantageous for the city or Riverside Fire Authority to continue to the next step to look at annexation.

Mayor Dawes reported they agreed it would be in the best interest of everyone for the city to focus its attention on Lewis County Fire District No. 6 that currently serves the area to the south of the city. He stated they certainly have an interest in what's going on and suggested we start some kind of dialog with them and put everything on the table so there are no surprises. He suggested because we already have a committee that's been appointed it would be nice to continue on with that.

Councilor Spahr reported the discussion also centered on Central Dispatch and what's going on there. He noted the fire chiefs, police chiefs, and the Sheriff are all involved in discussions and suggested we need keep an eye on the issue as it unfolds. Councilor Spahr indicated they have some issues that need to be resolved.

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Councilor Harris reported he was going to ask to pull the Tacoma rail item from the consent calendar to talk about it more, adding he wanted to make a symbolic 'no' vote on it. He stated they had a very good discussion and understood completely about not going through with the purchase; however, he didn't want anybody to overlook the fact that even though what they were looking at was a numbers study there are things you can't quantify in dollar amounts, such as control of a rail line. Councilor Harris suggested it's not on the front burner right now because oil prices are down, but if the Bakken oil starts back up again we could potentially have mile long trains running through our community if someone picks it up and starts transferring oil trains to Grays Harbor. He noted there were disagreements about some of the numbers, but at the same time it was too far away financially. Councilor Harris stated if nothing were to happen everyone at that meeting will look wiser; however, if something does happen they'll all look back and kick themselves for missing a potential opportunity.

5. Ordinance No. 954-B, Second and Final Reading – Providing for Annexation of the Chehalis School Annexation. Chehalis School Administrator Mary Lou Bissett stated she really appreciated the efficiency in which the city is moving on the annexation. She noted the Chehalis School District is in favor of the annexation and is pleased that all of their buildings will be served by the city of Chehalis.

Councilor Spahr moved to pass Ordinance No. 954-B on second and final reading.

The motion was seconded by Councilor Pope and carried unanimously.

6. Ordinance No. 956-B, First Reading – Limiting Marijuana Processing, Production and Retail Facilities. Mr. Osborn reported, back in December, the council asked the administration to take a look at limiting the number of production and processing facilities within the city. He noted the Chehalis Planning Commission held a workshop and a public hearing on the issue, and on March 14 a public hearing was held by the city council.

Mr. Osborn reported the proposed ordinance before the council would allow indoor production and processing facilities within Industrial zones. He noted the Planning Commission felt the number would be limited based on the zoning. Mr. Osborn reported the other recommendation of the Planning Commission is to allow retail sale facilities in the Commercial Freeway zones and General Commercial zones. He noted at the time this came up the city was limited to one facility; however, it's now been raised to two. Mr. Osborn reported the Planning Commission proposed no restrictions on retail other than the state limiting it to two facilities at this time.

Mayor Dawes stated he understood that the Commercial Freeway zone is the development over by the airport, and the General Commercial zone is basically all of the commercial zoned areas, with the exception of the Central Business District. He asked if the Central Business District included Chehalis Avenue from Pacific Avenue to Main Street.

Mr. Osborn stated he believed it did.

Councilor Taylor reported he received a call for Jerrie Paine (Old Tobey – 391 NW State Avenue) stating she was worried that the proposed ordinance would zone her out of business.

Mr. Osborn reported her business would be allowed to continue to operate as an existing non-conforming use; however, if the building were to be damaged or destroyed by more than 50 percent they would not be allowed to rebuild.

Councilor Spahr inquired about the zoning for State Avenue.

Mr. Osborn reported in this particular area its zoned industrial. He noted the interesting thing about the Light/Industrial (IL) zone is that certain components include an 'asterisk' that allows certain general commercial uses within the IL zone, which is how Old Tobey got in.

Councilor Spahr noted Palmer Lumber, which is across the street from Old Tobey, is also retail outlet.

Mr. Osborn reported they also fall under that 'asterisk' for general commercial facilities in the IL zone.

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Ms. Paine reported she thought the issue before the council on March 14 was to limit the number of retail stores, not the issue of zoning. She suggested the proposed ordinance would zone her business out and asked what the basis is for changing the zoning to begin with. Ms. Paine stated she was told from the very beginning that their location was going to be zoned IL. She stated she found it arbitrary and capricious for the council to consider rezoning it in such a manner that it would zone them out altogether.

Ms. Paine asked if an impact study had been done with regard to putting a retail store in the Freeway zone. She reported people have a hard time finding them in the industrial area, but on occasion they do have intoxicated folks trying to buy marijuana. Ms. Paine suggested if they were to put a retail store along the freeway that could be a common occurrence.

Mayor Dawes stated Ms. Paine's question would probably need to be referred back to the Planning Commission since it was a recommendation that came from them.

Ms. Paine stated it was her understanding that in order to create new zones there were steps that had to be taken. She noted the retail issue came up after the Planning Commission conducted the public hearing. Ms. Paine suggested the zoning issue for retail stores be sent back to the Planning Commission for a public hearing.

City Attorney Hillier reported the Planning Commission would have had to fully consider the issue before making a recommendation to the council. He stated the council could choose to refer it back to the Planning Commission if there are concerns about the issues being brought up.

Mr. Osborn reported it was discussed by the Planning Commission, but not in much detail. He noted the feedback he received from the Planning Commission was to limit it to two, and anymore analysis would be moot.

Councilor Harris stated the concern he had is that the state initially limited it to one retail store and now they've changed it to two. He noted this is an arbitrary number and the state can pull the cap completely off at any time.

City Attorney Hillier reported they could certainly send it back through the Planning Commission process if the state increases the number, but the council can also put limitations on it.

Mr. Osborn suggested they could simply add an additional note under the Use and Occupancy for Cannabis Retail Facilities, which states, "No more than two retail facilities shall be allowed in the city of Chehalis."

Ms. Paine stated they could certainly limit the number, but her concern is the zoning. She requested that the council consider zoning the area in which her business is located to IL, and not allow it in the Freeway zone. Ms. Paine suggested Commercial General is fine, so long as it meets the 1,000 foot rule.

Mayor Dawes asked Mr. Osborn what the thinking of the Planning Commission was to take the IL zone out of there.

Mr. Osborn reported the feedback he gave the Planning Commission was that the council was looking at limiting the number of retail facilities because they didn't want to be the 'cannabis capital' of Washington. He noted they really focused on that, which is how they came up with limiting it, but still allowing it.

Mayor Dawes stated the location of Ms. Paine's store is a good one if you're going to have it. He felt there was nothing in the ordinance that limited anything.

Mayor Dawes reported he could see the state raising the number of retail stores in the cities who have allowed it, and during a budget shortfall the money they currently share with the cities is going to go away because that's what the state does. He noted that is one of the reasons he's looking to limit it, so we don't become the cash cow for someone else.

Councilor Pope stated he would like to see it limited to two stores and didn't think it should be allowed in the Freeway zone, adding that was not the intention. He suggested if they have the ability to control it, they should.

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Councilor Harris reported, as a business owner, he would like his property protected. He stated whether he agrees or disagrees with what's going on, he would like to figure out a way to protect the businesses that are currently here. Councilor Harris noted we already have too many things controlling our future and suggested they put a limit on the number of marijuana retail facilities and take the Freeway zone out.

Councilor Lund stated he agreed they should not be in the Freeway zone and suggested they send it back to the Planning Commission. He stated it's not fair for someone to spend a lot of money on their business and if something happens they can't rebuild. Councilor Lund felt they should leave businesses alone so they can make money and put people to work.

Councilor Spahr asked if Palmer Lumber would be able to rebuild in their current location if their business burned down.

Mr. Osborn stated they could because they're a permitted use with the 'asterisk.'

City Attorney Hillier recommended they either send it back to the Planning Commission to reanalyze it, or they could adjust the ordinance for second reading.

Mayor Dawes stated, based on what he heard from the council, he would request the following changes be made to the proposed ordinance:

- Section 1. - Growing processing and production would stay in the Industrial zones
- Section 2. - Retail sale of cannabis would be allowed only in the General Commercial and Industrial zones

City Attorney Hillier agreed, adding the other change he heard is to limit the number of retail stores to two, which could be added as a note under the Use Chart. He stated if the council is comfortable with these changes they can direct the administration to update the ordinance with the changes for second reading.

Councilor Lund asked if it would be possible for Ms. Paine to expand her facility.

Mr. Osborn reported the proposed changes to the ordinance would allow it.

Dick Watkins (135 Literal Road, Chehalis) reported he's been helping Jerry Antenelli with his store located at 1570 N National Avenue. He indicated it's hard to find a place that meets the state requirements and the 1,000 foot rule limits the area in which you can have a retail store within the city. Mr. Watkins suggested if the city added a 1,000 foot rule between two marijuana retail outlets there would be no other place for marijuana businesses to open in the city.

Mr. Watkins reported he attended the Planning Commission meetings, adding they discussed growing and processing, but didn't mention anything about retail. He asked if the proposed ordinance included the store at 1570 N National Avenue.

Mayor Dawes stated yes, adding it's included in the General Commercial zone.

Councilor Harris moved that the council pass Ordinance No. 956-B on first reading.

The motion was seconded by Councilor Taylor.

Councilor Harris moved that the council amend Ordinance No. 956-B changing Section 2. to read, "The retail sale of cannabis in the city of Chehalis is allowed only in the General Commercial and Industrial zones," and add a note under the Use Code (No. 17) limiting the number of retail facilities to two.

The motion was seconded by Councilor Lund and carried unanimously to approve the amendments.

The motion to pass Ordinance No. 956-B, as amended, carried unanimously.

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Mayor Dawes reported the scheduled executive session had been cancelled due to the city manager being out ill.

There being no further business to come before the council the meeting adjourned at 6:13 p.m.

Mayor

Attest:

City Clerk

SUGGESTED MOTION

I move that the council approve the minutes of the regular city council meeting of March 28, 2016.