

July 9, 2012

The Chehalis city council met in regular session on Monday, July 9, 2012, in the Chehalis city hall. Mayor Ketchum called the meeting to order at 5:16 p.m. with the following council members present: Terry Harris, Dr. Isaac Pope, Bob Spahr, Daryl Lund, and Dennis Dawes. Councilor Taylor arrived at 6:00 p.m. Staff present included: Merlin MacReynold, City Manager; Brian Kelly, Assistant City Attorney; Judy Schave, City Clerk; Glenn Schaffer, Police Chief; Kelvin Johnson, Fire Chief; Bob Nacht, Community Development Director; Eva Lindgren, Finance Manager; Peggy Hammer, Human Resources Administrator; Herta Fairbanks, Public Works Director; and Becky Fox, Court Administrator. Members of the media included Kyle Spurr from *The Chronicle*.

1. **Work Session – Latecomer Fees on Airport Property.** The council met with Airport Manager Allyn Roe and Board Representative John Spears to discuss latecomer fees for future development on the airport property. City Manager MacReynold asked Bob Nacht to set the stage on how the city got to where we are with regard to the latecomer fees.

Mr. Nacht provided the council with a copy of the CCA Retail 60-acre Master Plan, noting it was the cover page for a binding site plan application that Rick Peterson submitted to the city back in 2004. He reported the plan included a number of phases for development, which was the basis of where they started with the ordinances that established the latecomer fees.

Mr. Nacht reported, when the CCA Retail 60-acre Master Plan was first introduced, the traffic impact analysis suggested as the Twin City Town Center was developed the north connection to Airport Road had to be included for traffic mitigation, and as part of the State Environmental Policy Act (SEPA) process, Mr. Peterson was on the hook to participate in the development northward. He noted item No. 4 of the Final Determination of Non-Significance stated, "All public utility extensions and roadway construction serving any development proposal shall be installed, approved and dedicated prior to any development permits being issued. Phasing of such extension may be appropriate, and if submitted, shall be consistent with the approved master plan and the city's engineering standards." Mr. Nacht noted this was the reason the city created the two ordinances pertaining to latecomer fees.

Mr. Nacht reported there were also provisions in the SEPA document, noting, "All development sites that are not required to construct frontage improvements consistent with the city's engineering standards shall pay the calculated (pro-rated) capital improvement charge for utility and roadway capacity extensions that are constructed by the city, as provided in a resolution to be adopted by the city." He stated the SEPA decision was the crux for the basis of why the city proceeded in developing the two ordinances.

Mr. Nacht talked briefly on Ordinance Nos. 817-B and 818-B that established the latecomer fees on the airport property. He also provided the council with two maps depicting the different lots/tracts of the airports property, and worksheets showing the construction cost breakdown for the streets/transportation and the utilities. Mr. Nacht explained the different phases and the impacts with regard to the latecomer fees. He noted part of the fee was based on the city having to go in and repair the different systems that didn't meet code at the time Mr. Peterson walked away from the project. Mr. Nacht reported, if they ever have to use the worksheets, they would have to discuss whether or not to collect the \$100 administrative fee. He reminded the council that the financing of the two projects came out of the wastewater utility fund, so they would get the accounts receivable in this case.

Mr. Nacht reported on the infrastructure for the streets, noting at one time Mr. Peterson was on the hook for development of the transportation system for any future mitigation and development. He noted the current development did not trigger a level of service standard that necessitated the connection with Airport Road; however, they were now at the point where the connection to Airport Road has to be made to mitigate the traffic impact.

Airport Manager Allyn Roe felt the common theme was Mr. Peterson. He noted the Airport Board was struggling with how they were going to adopt their leasing standards at fair market values and be able to accommodate the additional fees for the corrections made on the property.

Mr. Roe believed both the airport and the city shared the same position with regard to being hurt by CCA Retail and Mr. Peterson. He stated it was their belief that the additional fees should have been directly focused toward Mr. Peterson and CCA Retail, and not spread out over the properties again.

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Mr. Roe reported, at the time the two ordinances were passed, the Airport Board had an option agreement with CCA Retail/Rick Peterson to lease all of the remaining properties. He stated the idea behind the ordinances was, Mr. Peterson had to lease the properties and would be responsible for paying the fees, and the city would recoup their money from Mr. Peterson. Mr. Roe noted the airport, through legal negotiations, was able to get out of the option agreement because of other issues with the development of the property.

Mr. Roe believed the downturn in the economy was keeping a lot of the bigger developers from wanting to lease larger areas, adding the airport hadn't executed a lease on the property since the end of 2003.

Mr. Roe provided a fact sheet that highlighted the development of the airport property. He noted they currently lease approximately 60 acres to various national retail tenants; they have 53 businesses that employ about 700 people; and the estimated combined tax revenues are over \$2 million. Mr. Roe suggested they get a double impact to the region based on the dollars re-spent in the community, along with an impact of about 3,200 jobs.

Mr. Roe talked briefly about the benefits to the city and what concessions and investments the airport could make that will earn them more in the long run. He noted the impact to Chehalis was about \$2 million in tax revenue, but the real winner was the State of Washington who receives over \$9 million in tax revenue. Mr. Roe reported estimated gain to the city for the new Taco Time would be about \$18,000 per year.

Mr. Roe reported the Airport Board made a decision to start paying commission fees in an effort to attract businesses. He noted, based on the fees that are currently set up, it would cost them the equivalent of about eight months of lease revenue. Mr. Roe stated they were also offering to fill some areas, which would cost them initially, but would be made up with the development of adjacent properties.

Mr. Roe stated they were interested in negotiating with the city to either reduce the latecomer fees or eliminate them.

Mr. Nacht reported the transportation ordinance provides that the latecomer fee can be collected over a 15-year period through the utility billing process, and the portion for the utilities could be amortized over a 10-year period.

Councilor Pope suggested they were going to have to raise the utility rates in the near future, and it wouldn't look good if the city is forgiving fees on property out at the airport.

Mr. Roe felt the city should look at trying to recoup those fees from Mr. Peterson, who caused the additional work. Councilor Pope suggested the city would have to incur legal fees in order to do that.

Councilor Harris stated they had three options: they could waive all fees; waive no fees; or evaluate them on a case-by-case basis. He asked if the \$9,700 fee for Taco Time would make or break the deal. Mr. Roe didn't believe so, adding it was a pretty reasonable fee.

Councilor Harris brought up the issue of the city not having a business and occupation tax, suggesting if we did, we could give everyone a break on those taxes making it look like they are getting something for nothing.

Councilor Harris reported he was more inclined to look at the latecomer fees on a case-by-case basis, adding if it was going to make or break the deal, he was definitely pro-business.

Councilor Spahr inquired as to who Mr. Peterson contracted with and who was responsible for him. Mr. Nacht reported Mr. Peterson had his own construction company, Retaining Walls Northwest, adding he was the applicant and his construction company was the permit holder for the development out at the airport.

Councilor Spahr asked, "Who was responsible for inspecting the work done by Mr. Peterson?" Mr. Nacht reported the city was, adding the city did issue correction notices, but Mr. Peterson failed or refused to respond to them.

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Councilor Spahr inquired about the fair market rent and fees, wanting to know if they could take a little less in rent to make up for the fees. Mr. Roe stated it was his understanding that they have to charge fair market rent. Councilor Dawes noted state law says you have to collect fair market value, but added there are creative ways to do it. He reported if they didn't get creative with Wal-Mart and Home Depot they wouldn't be sitting there today.

Councilor Dawes stated they had to remember that the city is a joint owner of the airport, and the Board works for the city and the council. He suggested they work together on finding creative ways to lease and/or fill the property.

Councilor Dawes stated he also shared Councilor Pope's concern regarding utility charges, adding he didn't like seeing the city forgiving things because it will be the citizens who end up paying for it.

Councilor Spahr suggested the city was not without fault and we need to work with the airport.

Mr. Roe noted he didn't want the airport to be perceived as not being 'giving,' adding the initial utilities were given by the airport through a considerable lease concession and all of the utilities and improvements had been done in a similar fashion.

Mayor Ketchum asked Mr. Roe if he was okay with the fees established for Taco Time. Mr. Roe stated he believed so. Mayor Ketchum thought the council was in close agreement to look at it on a case-by-case basis.

Councilor Spahr stated he had a problem with doing it on a case-by-case basis, noting down the road the city would probably end up in a lawsuit.

Councilor Harris suggested business negotiations were just that, and as long as the legal guidelines are met, it doesn't matter what one person is charged versus another.

Councilor Lund stated he agreed with Councilor Spahr, noting you might give one person a super good deal, and the next person not so good of a deal. He suggested the issue of the fair market value could be waived real easy, depending on who you get to do the market value study.

Councilor Lund stated he also agreed with Councilor Dawes, noting the Airport Board should be working for the city. In his opinion, the whole site should be filled to make it more attractive and easier to lease out.

City Manager MacReynold suggested the council take some time to think about it, adding the administration could have a follow up discussion with Mr. Roe to look at possible alternatives to bring back to the council for consideration.

Councilor Pope asked if there was a way to go after Mr. Peterson through the bonding process. Mr. Nacht suggested those were complex legal matters and the city would need to address that through legal counsel.

Mayor Ketchum closed the work session at 6:07 p.m. and announced the council would take a short recess before opening the regular meeting at 6:10 p.m.

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

- a. Minutes of the regular meeting of June 25, 2012;
- b. Claim Vouchers No. 103434-103540 in the amount of \$80,650.04 dated June 29, 2012; Payroll Vouchers No. 35716-35811, Direct Deposit Payroll Vouchers No. 3231-3303, and Electronic Federal Tax Payment No. 112 in the amount of \$708,446.73 dated June 29, 2012; and
- c. Set date and time of July 23, 2012, at 6:05 p.m. for public hearing on petition to rezone property from commercial to R-3; multi-family residential.

The motion was seconded by Councilor Pope and carried unanimously.

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### 3. Administration Reports.

a. **Report on Chehalis Poplar Tree Plantation Tour.** Public Works Director Herta Fairbanks reported they received an interesting call from a woman asking if it would be possible for her daughter to take a tour of the city's Poplar Tree Plantation for her birthday. She noted she and her family lived in the Boistfort area and drive past the plantation daily, adding her daughter watched the development of the plantation and subsequent growth of the trees for the past nine years. Ms. Fairbanks reported Patrick Wiltzius arraigned for a tour on June 18 and upon arrival he found the whole family had showed up for the tour. Mr. Wiltzius gave a quick talk on the need for and the basic operation of the plantation and walked the family among the trees and through the aisles of management unit one. He also took them to see the sacred oak and told them about its history.

b. **Update on Metal Detector Installation.** Chehalis Municipal Court Administrator Becky Fox reported on the new metal detector for municipal court. She stated a company from Vancouver, Washington, installed and calibrated the detector earlier in the day, noting it wasn't permanently attached to the floor. Ms. Fox reported they had a signed contract with Western Washington Merchant Patrol to provide security services during court sessions. She stated she appreciated the council's support and the help received from the other departments in getting the equipment installed.

c. **Letter to Congresswoman Jaime Herrera Beutler.** City Manager MacReynold reported, at a recent Chehalis-Centralia Cooperative meeting, they discussed putting together a joint letter from Chehalis and Centralia, supporting Congresswoman Jaime Herrera Beutler's proposal to exclude any of the proposals with reference to protecting I-5.

Councilor Spahr moved to approve the letter and to have it signed by the entire council.

The motion was seconded by Councilor Pope and carried unanimously.

Councilor Dawes asked if there was anyway the state could shove a project through whether we like it or not. City Manager MacReynold suggested the state could set its own priorities. He reminded the council that, after the 2007 flood event, the Governor made several appearances in the area and repeatedly said she would not protect I-5 and do harm to the people in the surrounding communities, and to her credit she continues to stand by that.

Julie Balmelli-Powe, staff person for Congresswoman Herrera Beutler, talked briefly about the amendment that restricted any funds of the transportation bill to go towards the I-5 wall project. She noted the way it was worded it would have interfered with the money going towards I-5 projects between Blakeslee Junction and 13<sup>th</sup> Street. Ms. Balmelli-Powe reported the Congresswoman agreed to drop her amendment because the head of the committee agreed to work with her to re-write an amendment that can be put on the transportation bill at a later date. She noted the new amendment would be written with the help of the Washington State Department of Transportation and wouldn't interfere with any present projects.

d. **Update on Chehalis Pool Grants.** Mr. Nacht gave a brief update on the status of the pool grant application process. He noted the funding for the Land and Water Conservation Fund (LWCF) grant, that was apportioned by the transportation bill, was removed from the bill making one of the pots of money the city applied for unfunded. He noted the potential for the Washington Wildlife and Recreation Program grant through the Recreation Conservation Office was still there as far as he knew, and the \$250,000 committed by the Chehalis Foundation was still available as our local match. Mr. Nacht suggested if they were successful with two of the three funding sources the city could still get a good project out of it.

Mr. Nacht reported they were hopeful that the funding for the LWCF will be reinstated through some means, adding if that happens, they would continue with their three legged approach.

Councilor Pope asked if the information for the grant could be re-written for a private foundation. Mr. Nacht noted the applications the city is pursuing had to be done by a municipal entity; however, the source of the funding could be the Chehalis Foundation. He noted any other private funding sources would also be greatly welcome.

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#### 4. Council Reports.

a. **Update From Councilor Pope.** Councilor Pope reported there was a lot of effort and participation on the part of the community and members of the Lewis County Bowlers Association to install an automated external defibrillator (AED) at Fairway Lanes in Centralia. He noted during a brief discussion with the Fraternal Order of Eagles in Chehalis, they suggested if the Chehalis Fire Department participated in teaching a class at the Eagles they would receive a \$1,000 grant to put towards an AED for city hall. As a result of the well-attended class, the Eagles got their AED and the city received one as well. Councilor Pope noted the funds left over from the money raised for the AED at the bowling alley would be added to the grant money for the purchase of the city's AED.

Councilor Pope stated he would like to invite representatives from the Chehalis Eagles and the Lewis County Bowling Association to the next council meeting, to give them some recognition for their help in providing an AED for the city.

Police Chief Glenn Schaffer reported the AED did come in and was pretty much set up and ready to be installed. He thanked Councilor Pope for everything he did to help raise funds for the new AED and wall cabinet.

City Manager MacReynold reported the feedback he received was that the training provided by Fire Captain Rob Gebhart was exceptional.

b. **Update From Councilor Dawes.** Councilor Dawes reported he attended a Lewis County Historical Museum Board meeting on July 3, where Councilor Lund did a good job presenting the idea that, if there wasn't the assistance from Lewis County and the city, the doors at the museum would probably be closed because they don't take in enough money to operate. Councilor Dawes reported the new director was really strained with so much to do and was in need of some volunteers. He suggested if there was anyone out there looking for a place to volunteer, the museum be one to look into.

Councilor Dawes reported the museum had a couple of good fundraisers coming up: the Annual Blueberry Pancake Breakfast on July 28; and the Pioneer Pie Social on July 29.

Councilor Dawes reported one of the more important North Lewis County Regional Fire Authority Planning Committee meetings was coming up on July 18. He noted it will be one of their first looks at: what the preliminary costs will be; what liabilities may stay with the city; and what the model will look like.

c. **Update From Councilor Spahr.** Councilor Spahr reported he was able to run over to Summerfest in Centralia for a short time, noting they have a real nice program with a lot of neat things going on. He also attended the Annual Schwingfest in Francis, Washington, over the weekend, adding he had a wonderful time with all of his relatives.

#### 5. **Ordinance No. 897-B, First Reading – Approving Interfund Loan Between the Water and Wastewater Funds.**

Finance Manager Eva Lindgren reported the interfund loan was basically a stop-gap measure. She noted they addressed the loan and the anticipated additional loan in the budget amendment, which would be covered under Ordinance No. 896-B. Ms. Lindgren reported they were looking at loaning up to \$1.2 million to the wastewater fund from the water fund.

Ms. Lindgren reported the city currently had two sets of loan covenants: the state loan and the general obligation (GO) bond. She noted the GO bond covenant requires the city to keep it reserved until we spend the money, and the state loan covenant basically states we have to set aside and reserve a year's worth of debt service payment.

Ms. Lindgren reported the interfund loan the council was currently considering would keep them good for now, but advised that the city was going to have some pretty heavy debt service at the end of the year. She reported, in order to keep the costs down, they were breaking it up so the wastewater fund wasn't borrowing any more than it had to at this point.

Ms. Lindgren explained how she arrived at the interest rate, noting she got quotes for what the city would pay on a 3-year CD. She reported the city was required by law to pay, at a minimum, what the local government investment pool rate is. Ms. Lindgren believed the city should be good for the foreseeable future; however, in the event interest rates jump up dramatically, they would need to revisit the issue of the debt service schedule.

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Councilor Lund asked why one entity was taking advantage of another with regard to the interest rate. Ms. Lindgren reported, since it was in-house, she was looking for the best rate. She asked if Councilor Lund was looking to see a higher rate and have the wastewater fund pay more. Councilor Lund suggested the rate Ms. Lindgren was proposing was not the same as what the rate would be for someone borrowing money from a bank, adding he just wanted to throw that out for consideration.

Councilor Lund reported he had concerns and didn't believe in loaning the money. He noted when times got tough he suggested we watch how we were running those two departments, and if we had been, perhaps we wouldn't have to borrow money now. Councilor Lund thought the city should be running the two utility departments like a business rather than spending the money however we want.

City Manager MacReynold responded to Councilor Lund's concerns, noting with support of the council, the city had not raised utility rates in approximately five years. He reported the city needs to have a certain number of people running the utilities, and didn't believe we were overstaffed in any of them. City Manager MacReynold suggested they have been running it like a business and continue to be responsible, but at the same time, recognizing we have some requirements based on the loans and the funds received from the state to build what is now a regional wastewater facility.

Ms. Lindgren reported the scheduled rate increases from the rate study were specifically set up to address the heavy debt service payment, noting over half of the wastewater budget is pure debt service.

Councilor Harris suggested a higher interest rate would only be passed on to the rate payers, adding it was the council who decided not to incrementally increase the rates for the last five years that got them to this point.

Councilor Dawes agreed, noting the council was the only ones who could have made those decisions. He stated he was under the impression that the interest rate used on an interfund loan had to be what the State Investment Pool was paying on their savings account. Ms. Lindgren reported the written guidance she received from the State Auditor's Office suggested the administration present an agreement to the council with an amortization schedule showing the payoff, but she could only do that if she knew what the rate was. She noted the CD rates were actually higher than the State Investment Pool.

Councilor Dawes stated he too was uncomfortable with the loan, but saw the need and would support it. He felt they were going to have some very tough decisions to make in the near future with regard to utility rates.

Councilor Pope stated he remembered the discussion they had regarding the incremental rate increases, noting they either did it then, or later, and it would be more painful if they did it later. He suggested the council needed to bite the bullet sometimes and do things on a regular schedule when they're supposed to be done.

Councilor Dawes moved that the council pass Ordinance No. 897-B on first reading.

The motion was seconded by Councilor Taylor and carried 6-1 with Councilor Lund voting against the motion.

**6. Ordinance No. 896-B, First Reading – Amending the 2012 Budget.** Ms. Lindgren reported the beginning fund balances ended up being better than what they originally budgeted for 2012. She noted even though the revenues were not quite as much as they had hoped, they were able to better the estimates because the departments were very careful with their budgets.

Ms. Lindgren reported the recent purchase of the 'used' street sweeper would be funded totally by the storm and surface water fund because it benefits that system. She noted she ran it by the State Auditor's Office first to make sure there would be no issues with funding it entirely through the one fund.

Councilor Harris moved to pass Ordinance No. 896-B on first reading.

The motion was seconded by Councilor Spahr and carried 6 to 1 with Councilor Lund voting against the motion.

There being no further business to come before the council, the meeting adjourned at 6:54 p.m.

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Mayor

Attest:

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City Clerk

**SUGGESTED MOTION**

I move that the council approve the minutes of the regular city council meeting of July 9, 2012.