

MINUTES OF THE MAY 12, 2011 CITY COUNCIL MEETING  
City Hall, 135 East Johnson Avenue, Chelan, Washington

1. CALL TO ORDER

Mayor Pro Tem Harper called the meeting to order at 6:00 p.m.

2. ROLL CALL

Elected Officials Present: Mayor Pro Tem/Councilmember Harper and Councilmembers Isenhardt, Lingard, McCardle, Morehouse and Morse. Absent/Excused: Mayor Goedde and Councilmember Cooney.

Staff present: Public Works Director/Acting City Administrator Van Epps, Attorney Galbraith and City Clerk/Administrative Assistant Liles.

3. AGENDA CHANGES

None

4. CITIZEN COMMENTS

None

5. CONSENT AGENDA

**McCardle moved to approve the consent agenda as follows. Seconded by Lingard, motion passed unanimously.**

- A. Approve Minutes of the April 14, 2011 Regular City Council Meeting;
- B. Approve Payroll Warrants No. 35770 – 35873 totaling \$185,964.89 and Claims Warrants No. 76778 – 76887 totaling \$151,366.59;
- C. Excuse absence of McCardle and Morse from the May 5, 2011 Special City Council Meeting.

6. SPECIAL PRESENTATIONS

None

7. PUBLIC HEARINGS

None

8. ORDINANCES, RESOLUTIONS AND OTHER ACTION ITEMS

- A. UNTREATED WATER USE: Morse advocated repeal of Chelan Municipal Code 13.20.090, which allows City Council to approve agreements to provide unfiltered, untreated water to large scale recreational developments on an interim basis. Morse stated that he became involved in this matter when the Daybreak project was proposed and initially asked Council to repeal the ordinance in 2008. Although Council declined to do so at that time, he continues to believe it should be repealed and for the same reasons, i.e. those set forth in letters he wrote to Council dated April 11, 2006; May 9, 2006; and June 6, 2008. Morse explained as follows. CMC 13.20.090 is inconsistent with CMC 13.40, which requires developments of less than fifty acres to relinquish water rights to the City and was adopted because the City was advised that it faces a water shortage. The City has applied for additional water rights, but there is no guarantee the

Department of Ecology will grant them. If the City supplies water to the developments and then withdraws it, there will be lawsuits to force continued delivery or for monetary damages for loss of property value. On the other hand, if Council denies a request for the provision of water, there may be a lawsuit claiming the decision was subjective.

Van Epps explained that CMC 13.20.090 was adopted to accommodate and foster the development that was going on at the time. He confirmed Morse's information concerning a water shortage at full build out, saying had all the development that was proposed at the time actually occurred, the City would have run out of water by 2015. However, the City isn't experiencing growth at the expected rate and, under current circumstances, should have sufficient water until 2027. Van Epps also noted that no water rights applications for the Chelan area have been processed by DOE in five years, but he's hopeful that the watershed planning effort now underway will get things moving. Morse stated that he believes DOE may view the City's provision of water to large scale recreational developments as poor conservation, thus jeopardizing the City's chances for obtaining additional water rights.

Morehouse said he doesn't see anything negative in keeping the subject code and recognizes certain benefits. He stated he doesn't believe anyone is going to sue the City if it denies a request for the provision of water or shuts the water off after providing it. He advocated keeping the code, saying there is no way to predict what need there might be for untreated water, Council would still have the option to deny a request for water, and the sale of water brings in money.

After continued discussion, **Lingard moved to direct the City Attorney to prepare an ordinance repealing CMC 13.20.090 for consideration at the Council meeting on May 26, 2011, and to postpone any action on Morse's recommendation until that date. Seconded by Morse, motion passed 5-1 with Lingard, Morse, Harper, Isenhart and McCardle voting aye and Morehouse voting nay.**

- B. COMMUNITY GARDENS PROGRAM: Isenhart reported as follows. The Sustainability Committee received approximately 450 responses to its recent straw poll and responses are still coming in. Around 75% of respondents favor community gardens. She is currently investigating community garden programs in other cities. She drafted a utility bill insert to inform the public of poll results and to let them know that city staff is willing to assist in locating and establishing garden spots. However, Administrator Reinbold advised that she should seek Council approval for the mailing and for staff's involvement. The cost for adding the inserts to the utility bills would be \$73.00.

There followed Council comment:

Lingard: At the May 5, 2011, budget workshop, the Finance Director advised against approving anything without knowing its cost and where the funding would come from.

Morse: The City shouldn't foster the program – just revise the code to make community gardens a permitted use and leave it at that.

Harper: Those with an interest should establish and operate the program.

McCardle: The City should create an environment where the program can succeed, and the community should take it from there.

Isenhart: The straw poll question was "Should community gardens be encouraged."

**Isenhart moved to authorize the expenditure of up to \$100 for a one time mail out of straw poll results. Seconded by McCardle, motion passed unanimously.**

- C. LDS CHURCH UTILITY EASEMENT TERMINATION AND RELOCATION AGREEMENT: Van Epps Reported that the City has been working with the Church of Jesus Christ of Latter-Day Saints (LDS) to secure a utility easement across church property within which utilities can be constructed for the benefit of residents in the Lord's Acres area. LDS and the City have agreed that LDS will grant the requested easement and, in exchange, the City will vacate and terminate an existing prescriptive easement it has on LDS property. Van Epps presented the resulting Utility Easement Termination and Relocation Agreement and recommended Council authorize its execution.

Lingard pointed out an apparent discrepancy in a legal description attached to the proposed agreement as Exhibit "A".

Van Epps suggested that action on this item be postponed until the next council meeting when staff would be able to explain or correct the apparent discrepancy.

**Morse moved to postpone consideration of the Utility Easement Termination and Relocation Agreement with LDS Church until the meeting of May 26, 2011. Seconded by Isenhart, motion passed unanimously.**

#### 9. MAYOR, COUNCIL COMMENTS

- A. DOWNTOWN SIGNAGE: Morehouse complained that downtown light poles are meant to be part of the historic downtown Chelan motif, but are cluttered with traffic signs, which ruins the effect and confuses motorists. He recommended that City staff rectify the situation. McCardle suggested that the Historic Downtown Chelan Association look into the matter. Morehouse said he would discuss it with the Association at their next meeting.
- B. SUSTAINABILITY: Morehouse asked for an update on Sandra Streiby's accomplishments relating to the sustainability element of the City's Comprehensive Plan and what her services are costing the City.

#### 10. CITY ADMINISTRATOR'S REPORT

There was no City Administrator's Report.

#### 11. STAFF REPORTS

Galbraith reported attending a Washington Cities Insurance Authority seminar the previous day where an update on state legislative action was presented and discussed. Galbraith noted: Legislation governing medical marijuana dispensaries changes almost hourly. The bill allowing courts the discretion to award \$0 to \$100 in daily penalties for Public Records Act violations passed - an improvement over

the \$5 to \$100 required previously. Also discussed at the seminar were difficulties and concerns related to municipalities' use of social media.

11. RECESS (AIRPORT BOARD MEETING)

12. EXECUTIVE SESSION

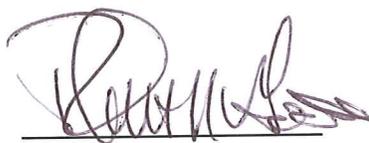
None

11. ADJOURNMENT

There being no further business, meeting adjourned at 7:19 p.m.



Linda Allison-Liles  
City-Clerk



Robert R. Goedde  
Mayor

Date approved by Council: 5/26/11