

MINUTES OF THE DECEMBER 8, 2011 CITY COUNCIL MEETING
City Hall, 135 East Johnson Avenue, Chelan, Washington

1. CALL TO ORDER

The meeting was called to order at 6:00 p.m.

2. ROLL CALL

Elected Officials Present: Mayor Goedde; Councilmembers Isenhardt, Lingard, McCardle, Morehouse, Morse; Councilmembers-elect Higgins & Steele. ABSENT/EXCUSED: Councilmembers Cooney and Harper.

Staff present: Administrator Reinbold, Attorney Galbraith, Clerk/Administrative Assistant Liles, Finance Director Grant, Parks & Recreation Director Sablan, Planning & Community Development Director Gildroy, Public Works Director Van Epps, Receptionist/Clerical Assistant Gallucci, Police Chief Huddleston.

3. AGENDA CHANGES

- A. Add Agenda Bill 2011-058 requesting authorization for the Mayor to sign an agreement with eCIVIS for grant research and writing services.
- B. Add a Request to Excuse the Absence of Councilmembers Cooney and Harper from the December 8, 2011 regular City Council meeting.

4. CITIZEN COMMENTS

None

6. SPECIAL PRESENTATIONS

- A. PUBLIC SERVICE RECOGNITION: Mark Tesch was recognized for his service as a Planning Commissioner.
- B. PUBLIC SERVICE RECOGNITION: Stan Morse was recognized for his service as a City Council Member.
- A. PUBLIC SERVICE RECOGNITION: George Lingard was recognized for his service as a City Council Member.

5. CONSENT AGENDA

Morehouse moved to approve the consent agenda as follows. Seconded by Isenhardt, motion passed unanimously.

- A. Approve: Claim Warrant Nos. 78057 – 78102 and 78104 - 78123 Totaling \$ 294,771.83 and Payroll Warrants No. 37413 – 37490 Totaling \$167,563.50;
Void: Claims Warrant No. 78103
- B. Excuse: Absence of Councilmembers Cooney and Harper from Regular Council Meeting of December 8, 2011.

7. PUBLIC HEARINGS

- A. MEDICAL MARIJUANA MORATORIUM: Mayor Goedde explained the purpose of and procedure for this public hearing to consider continuing the moratorium established by Ordinance 2011-

1428, which prohibited the licensing, establishment, maintenance or continuation of any use consisting of or including the sale of medical marijuana, the provision of medical marijuana to more than one person, the dispensing of medical marijuana or a collective medical marijuana garden. The Mayor opened the public hearing at 6:09 p.m.

Gildroy presented the staff report, explaining that this public hearing is required by RCW36.70A.390 if the medical marijuana moratorium is to last more than 60 days. Gildroy further explained that it is his intent that the Planning Commission review this issue and take additional public input during the six months' continuation Council is asked to approve.

Following the staff report, Mayor Goedde called for public comment:

ATTORNEY MARK J. CARROLL, 200 GOLF COURSE ROAD: He expressed concern that due process wasn't served since he wasn't able to go to an ordinance or RCW to determine public hearing notice requirements and learn how this public hearing would be conducted. Exhibit 1 to the agenda bill, *Findings of Fact regarding Ordinance No. 2011-1428*, states that the Planning Director provided notice of this public hearing pursuant to the relevant provisions of Chelan Municipal Code 19.22.030. However, he found that CMC 19.22 relates to land use permitting. Also, he wasn't able to determine under what authority the moratorium was enacted because the agenda bill says "State law allows the City Council to enact a moratorium at any time," but it doesn't say which state law. It does mention RCW36.70A.390, but when he investigated, he found that RCW36.70A.390 relates to growth management. He doesn't see how growth management and land use permitting relate to collective gardens. He reviewed Municipal Code 1.12, which deals with the passing of ordinances, but it says nothing about moratoriums. Further, the City Administrator, speaking on the radio, said that the medical marijuana moratorium is needed because legislation on this issue is in flux at the state level. However, he said nothing about the secondary findings listed in the information packet provided to City Council for tonight's meeting.

Carroll also questioned the need for continuing the moratorium, explaining that under current state law, collective medical marijuana gardens and individual gardens for patients' own use are legal, and contending that it shouldn't require a lengthy process to figure out how to regulate something that is allowed by law. He noted that there is precedent for adopting RCW by reference. Also, he provided Council with a copy of the City of Seattle ordinance relating to regulation of medical marijuana and recommended that City of Chelan simply adapt it for its own use. He said that all the City would have to do is address zoning, and that could be done very quickly.

Responding to Carroll's due process concern, Galbraith explained as follows. The ordinance adopted by Council in October 2011 to initiate the moratorium cited RCW 35A.63.220, which is the authority for the City to adopt a moratorium for a variety of things associated with planning. That authority requires a public hearing within sixty days of the ordinance's adoption if the moratorium is to last longer than sixty days. The ordinance directed the Planning Director to issue notice of this public hearing in accordance with the municipal code associated with planning, which is CMC 19.22.030.

Galbraith further stated that the City's zoning code may need to be altered, and the established process for zoning changes is review by the Planning Commission, which then makes a recommendation to City Council. Galbraith noted that six months is a short time for that process. Gildroy added that the current code needs to be clarified, the Growth Management Act

requires policy to support zoning, and the established process is designed to involve the community in consideration of the issue.

JOE AMENDOLARE, 54 RIVERVIEW: He claimed that zoning and licensing of medical marijuana gardens was addressed in 2010 when the City issued a business license to Compassionate Health Care Collective, LLC. Amendolare then noted that the City has precedent in zoning for controversial uses, and he suggested the City's adult entertainment zoning be adapted for medical marijuana gardens. Amendolare explained the need for medical marijuana collectives and said Chelan patients just want to be able to obtain their medication safely and legally. He wants to be able to deliver medication to patients within city limits. He also explained the difference between medical marijuana dispensaries and collectives, pointing out that the former is illegal while state law permits the latter and stating that Compassionate Health Care Collective is donation based, does not sell, makes no profit and its members share all expenses and resources. He urged Councilmembers to separate their personal opinions from their political responsibilities in order to move forward with a solution. He offered to assist the City in its effort towards reaching a solution.

TAMARA AMENDOLARE, 54 RIVERVIEW: She asked Council to keep in mind that sick and debilitated people who need medication are suffering while the City figures out what to do about collective gardens. She said some don't have six months to live and their quality of life is seriously compromised without the medication they need. She also said it needs to be clarified that she and others testifying are referring to both collective gardens and patients cultivating marijuana on their own property for their own use. She offered to work with the Planning Commission and said she has helpful information she will share with the Commission, Council and city staff.

MIKE EVANS, 55 WASHINGTON CREEK ROAD: He said despite the moratorium he will continue using medical marijuana to stay off narcotics, but it will be more difficult.

TOM ALLISON, 411 FIRST STREET: He said he lives within city limits and depends on delivery of medical marijuana.

NO NAME PROVIDED, 750 SWANSON GULCH ROAD: He said he suffers from severe arthritis, and cannabis is an incredible help – safe and beneficial. He still needs narcotics for the pain but not as much as before he began using medical marijuana.

JUAN MENDOZA, 115 IVAN MORSE ROAD: He said he agrees with the previous speakers and will be happy to help the Planning Department.

DR. MIKE TRAVERS, 130 HENDERSON TERRACE: He said he is a doctor who has written a number of recommendations for cannabis. He described some of his patients and the expensive and dangerous prescription drugs they were able to replace with cannabis. He said his concern is that patients with serious problems continue to have access to the cannabis they need. He advised Council that if the moratorium is continued, its scope should be limited so it does not invade the privacy of patients' homes. Further, the moratorium should be limited to two months with a single 2 month extension allowed if needed.

Bryan Toyer, 425 BUTTE ROAD: He said that a lot of medical marijuana patients can barely function and are home bound. They require delivery of medical marijuana or need someone to pick it up for them, neither of which is allowed in the City due to the moratorium. Wenatchee is

the closest place to get medical marijuana. It would be good to have a central distribution point in Chelan. He wants the City to make it a priority to move forward – especially with allowing delivery.

RUSS JONES, 29 CHESTNUT: He reminded everyone that the matter at hand has to do with zoning. He said he hopes the City will address traffic, sanitation and so forth when deliberating and proceed as it would for any other business.

ALEC BARNES, 91 GRADE CREEK: He said he agrees that a delivery service is needed. Prescription drugs don't work for him – he gets addicted easily. Medical marijuana helps.

DR. JAY WASZKEWITZ, NO ADDRESS PROVIDED: He, said it is up to doctors, not the City, to decide what to prescribe. He would like to see medical marijuana distributed in a more controlled way. The matter at hand really is zoning. He encouraged the City to look at other communities and make their decisions based on how they have handled the issue.

There being no further public testimony, Mayor Goedde closed the hearing at 7:20 p.m. The Mayor then suggested people write letters to legislators or go to Olympia to testify in order to influence the state towards straightening out medical marijuana regulations.

- B. 2012 AIRPORT BUDGET: Mayor Goedde introduced a public hearing on the proposed 2012 Lake Chelan Airport Budget by explaining the hearing's purpose and procedure. At 7:22 p.m., the Mayor opened the public hearing and called for a staff report, which was provided by Grant. Council discussion followed. At 7:22 p.m., the Mayor called for public comment. There being no one in the audience wishing to testify, the Mayor asked if Council had any further questions or comments. Grant then answered Council questions. There being no further discussion, the Mayor closed the public hearing at 7:23 p.m.

8. ORDINANCES, RESOLUTIONS, AND OTHER ACTION ITEMS

- A. MEDICAL MARIJUANA MORATORIUM FINDINGS OF FACT: McCardle, Lingard, Morehouse and Morse all urged staff to make resolving the medical marijuana issue their highest priority and to expedite the process because it is having a personal impact on the quality of peoples' lives. Galbraith pointed out that the moratorium, if continued, wouldn't prohibit the cultivation of medical marijuana for personal use and does not address the delivery of medical marijuana to patients, which the State allows.

Isenhardt moved to adopt the Findings of Fact regarding Ordinance No. 2011-1428 and to clarify that the scope of the moratorium with regard to the cultivation of cannabis plants for medical use applies to collective gardens and does not impact gardens maintained by individuals and to also clarify that the scope of the moratorium does not address the delivery of cannabis for medical use. Seconded by Morse, motion passed 4 to 1 with Lingard abstaining.

- B. 2011 AIRPORT BUDGET AMENDMENT: Grant introduced a resolution to amend the 2011 Lake Chelan Airport Budget to include expenditures for unanticipated purchases that came up during the year, including purchase of jet fuel beyond what was anticipated, final audit costs, purchase of a secondhand pickup truck and a few other small items. Grant noted that additional changes have come up since the proposed budget was distributed as an exhibit in this meeting's information packet, and she explained as follows. Another bill for jet fuel was discovered and

the pavement maintenance project was accepted as complete. She therefore increased beginning cash by \$43,400 for a total of \$74,863; increased expenditures for jet fuel by \$32,300 for a total of \$62,500; and recorded expenditure of \$11,100 for the final progress payment and release of retainage on the maintenance project.

There being no discussion, **Morehouse moved to adopt Resolution No. 2011-1235 amending the 2011 Lake Chelan Airport Budget (as updated to include changes made by the Finance Director after distribution of the proposed budget in council information packets). Seconded by Morse, motion passed unanimously.**

- C. 2011 CITY BUDGET AMENDMENT: Grant presented a proposed ordinance to amend the 2011 City Budget and referred Council to her memo of explanation dated December 1, 2011.

There being no discussion, **Isenhardt moved to adopt Ordinance No. 2011-1430 amending the 2011 City Budget as presented. Seconded by Lingard, motion passed unanimously.**

- D. 2012 AIRPORT BUDGET ADOPTION : Grant introduced a resolution to adopt the 2012 Lake Chelan Airport Budget as recommended by staff and the Airport Board.

There being no discussion, **McCardle moved to adopt Resolution No. 2011-1236 adopting the 2012 Lake Chelan Airport Budget as presented. Seconded by Isenhardt, Motion passed unanimously.**

- E. 2012 CITY BUDGET ADOPTION : Grant noted that the Final Proposed 2012 City Budget was distributed to Councilmembers' mail slots the previous week. Grant further noted that Agenda Bill 2011-038F distributed in the information packets for this meeting includes exhibits labeled "A", "B", Alternate "B" and "C". She explained that Council is asked to choose between exhibits "B" and "Alternate B" both of which list proposed 2012 salaries for elected officials and full time employees. However, "Alternate B" would afford the Mayor and employees not represented by the union a \$100 per month salary increase. Grant then answered Council questions.

Discussion concerning the proposed pay raise for the Mayor and non-union employees ensued with Mayor Goedde explaining that the requested increase would provide parity with the pay raise Council gave the union employees for 2012. Councilmembers said they didn't have enough time or information to vote for the requested pay raise at this time. It was Council's consensus to adopt the budget with exhibit "B" and then consider wages and benefits for the Mayor and non-represented employees after the first of the year.

Morse said he will vote against adopting the 2012 budget because he cannot accept spending another \$26,000 on the Sustainability Plan for these reasons: the sustainability planning effort has been going on for four years and, at the end of next year, will have cost the City \$69,810 to produce a document of less than 20 pages. Further, the plan will create another layer of regulation and create unnecessary problems for people.

McCardle moved to adopt Ordinance 2011-1431 adopting the city budget for the fiscal year beginning January 1, 2012 with Exhibits A, B, and C. Seconded by Isenhardt, motion passed 4-1 with Morse voting nay.

- F. DON MORSE PARK SHORELINE RESTORATION/BEACH ENHANCEMENT/MARINA EXPANSION PROJECT: Sablan reported that the J.A. Brennan design team incorporated Council input received at the November 9, 2011 special council meeting to develop three alternate bid items

to supplement a base bid plan for Phase I of the Don Morse Park Shoreline Restoration/Beach Enhancement/Marina Expansion Project. Sablan noted that the design team has witnessed unexpectedly low bids recently due to the economy, so it may be possible to select one of the alternates without additional cost to the City.

Jim Brennan and Tanya Wilcox, both of J.A. Brennan Associates, presented the revised design plan, including alternates and answered Council questions.

At Sablan's recommendation, **McCardle moved to accept the base bid and alternate bid items as designed and presented and to authorize staff to proceed with soliciting competitive bids for construction of the Don Morse Park Shoreline Restoration/Beach Enhancement/Marina Expansion Project. Seconded by Isenhart, motion passed unanimously.**

- G. SPEED LIMIT REDUCTION ON PORTION OF SR97A: VanEpps reported that Washington State Department of Transportation conducted an analysis to determine the appropriate speed limit on State Route 97A at the east end of the city and is recommending a speed limit reduction from sixty miles per hour to fifty miles per hour. VanEpps further reported that city staff concurs with WSDOT's recommendation.

There being no discussion, **Lingard moved to adopt Ordinance No. 2011-1432 reducing the speed limit on State Route 97A between mile post 235.83 and the east city limits from sixty to fifty miles per hour. Seconded by Isenhart, motion passed unanimously.**

- H. FOOD & BEVERAGE CONCESSION AT LAKESIDE PARK: Sablan asked that Council consider the recommendation of staff and the Parks & Recreation Board that a single snack food concession be allowed to operate in Lakeside Park for reasons outlined in his December 1, 2011 memo to Council with subject "Amending the policy of non-commercial activity in Lakeside Park." Sablan introduced Nicole Province, who currently has the state park food concession and had approached the Parks & Recreation Board at its November 17, 2011 meeting with a concession proposal for Lakeside Park. Province distributed her proposal to Councilmembers. Sablan explained that he was recommending a one year pilot program subject to review by the Board and Council before qualifying for a contract extension. A request for proposals would be issued to solicit potential concessionaires. Sablan then answered Council questions.

At the recommendation of Sablan and the Parks & Recreation Advisory Board, **McCardle moved to allow a single snack food concession to operate in Lakeside Park on a one year trial basis. Seconded by Isenhart, motion passed unanimously.**

- I. YEAR END BILL PAYMENT AUTHORIZATION: At Grant's request, **McCardle moved to authorize staff to pay invoices for end of year expenditures subject to review and recommendation from the council person delegated to review December vouchers. Seconded by Morse, motion passed unanimously.**

- J. ECIVIS GRANT WRITING SERVICES: Reinbold referred Councilmembers to his email of December 6, 2011 with subject "Grant Writing Services –eCIVIS" and recommended that Council authorize a three year agreement with eCIVIS for grant writing and research services. Reinbold explained as follows. The service usually costs \$7,350 per person per year, but eCIVIS has offered the City a three year agreement for two people at \$5,000 per year. Two employees would be designated as the City's grant research and writing staff to work through eCIVIS. The efficacy of the service

would be monitored closely and evaluated before consideration of a contract renewal. VanEpps and Gildroy also spoke in support of the agreement's approval. Brief discussion ensued.

Isenhart moved to authorize the Mayor to sign a three year agreement with eCIVIS for grant research and writing services. Seconded by McCardle, motion passed unanimously.

9. MAYOR, COUNCIL COMMENTS

- A. OUTGOING COUNCILMEMBERS: Lingard and Morse commented on their experiences as Councilmembers. The Mayor and various councilmembers thanked Lingard and Morse for their services.
- B. MEDICAL MARIJUANA: McCardle said she found the public hearing earlier in this meeting to be educational and she regrets that the audience members who testified didn't stay to hear Council's motion on the moratorium ordinance and her comments. She respects their research, ability, dedication and commitment. Had they stayed, she would have asked them to return that respect by refraining from stereotyping Council by assuming Council has a poor opinion of what they do. "Just because we sit up her and look different doesn't mean we automatically disagree with them."
- C. INFORMATION DISSEMINATION: Isenhart reported that she has nearly completed the public announcement on the Downtown Master Plan and will be starting on the announcement providing information on the Don Morse Park Shoreline Restoration/Beach Enhancement/Marina Expansion Project.
- D. MAYOR'S EXCHANGE: Mayor Goedde reported on the AWC Mayor's Exchange that took place on December 7 in Olympia. He said he'd brought back some information for distribution to Council.
- E. SISTER CITY: Mayor Goedde said the City will need to consider options for continued participation in the Sister City program.
- F. ELECTED OFFICIALS ESSENTIALS: Mayor Goedde announced that Association of Washington Cities is offering its Elected Officials Essentials class in four different cities on four dates in January and February. He encouraged attendance, especially by recently elected councilmembers.
- G. LIQUOR LAW: Mayor Goedde said Initiative 1183 has been challenged in court based on the state constitution's ban on having two subjects in one bill, and it will likely be repealed.
- H. JOB GROWTH: Mayor Goedde reported on Association of Washington Cities efforts to grow jobs in Washington State.
- I. REQUEST REGARDING PERS RECLASSIFICATION: Mayor Goedde said he attended a session with the Department of Retirement and learned that a buy-back would classify him as a PERS 1 employee. He asked staff to see what that would cost the City.

10. CITY ADMINISTRATOR'S REPORT

- A. OUTGOING COUNCILMEMBERS: Reinbold read a letter from Cooney expressing his appreciation to Lingard and Morse for their service to the community. Reinbold added his thanks.

B. DOWNTOWN MASTER PLAN IMPLEMENTATION: Reinbold reported that the appearance of downtown has already improved with replacement of garbage cans, and benches and bike racks are next.

C. LARGE WOODY DEBRIS: Reinbold reported that he and Gildroy would be meeting with the Corps of Engineers regarding large woody debris.

Isenhart said the County is considering banning large root wads. She also noted that there is a program whereby payment can be made to fund offsite mitigation where onsite mitigation isn't possible, and she has recommended that such funds be contributed to the Don Morse Park Shoreline Restoration/Beach Enhancement/Marina Expansion Project.

D. GOODFELLOWS THREE FINGERS: Reinbold announced that a telephonic hearing on the Three Fingers short plat appeal is scheduled. Staff will report back with information for Council.

11. RECESS (Airport Board Meeting)

At 9:38 p.m. council meeting was recessed to allow the Mayor and Councilmembers to participate in the regular meeting of the Lake Chelan Airport Board. Council meeting reconvened at 9:39 p.m. following adjournment of the Airport Board meeting.

12. EXECUTIVE SESSION

None.

13. ADJOURNMENT

There being no further business, the meeting adjourned at 9:39 p.m.

Prepared by:



Linda Allison-Liles, Clerk

Attested:



Robert R. Goedde, Mayor

Date approved by Council: January 12, 2012