

**City of Lafayette**  
**City Council Meeting Minutes**  
**April 11, 2002**  
**7:30 PM**

- 1. CALL TO ORDER:** Mayor Lotis Hanks called the meeting to order at City Hall at 7:30 p.m.
- 2. FLAG SALUTE:** Mayor Lotis Hanks led the flag salute.
- 3. ROLL CALL:** Phil Lieberman, City Administrator, called the roll.  
*Present:* Bob Cullen, Richard Jewell, Marianne Mitchell, Joe Giesbers, Ron Ross, Lotis Hanks, and Gary Filpi.  
*Absent:* None.  
*City Staff Present:* Phil Lieberman-City Administrator, Trena Cranfill-Assistant to the City Administrator, Paul Elsner and Pam Beery- City Attorney, Deputy Bob Wiro.  
*Others:* Mike Carpenter, Jackie Carpenter, Ron Harris, Laura Laird, Don Leard, Al Larsen, Bonnie Larsen, Walter Forster, Ed Carcrato, Kenny Schweiger, Linda Littleton-Bristol, Allen Bristol, Celeste Viau-Navetta, Kim Schweiger, Mike Lewis, Commissioner Leslie Lewis, George Meitzen, Nicole Montesano, Sid Browning, Mike Martinez, Cecil Elbert, and approximately 4 others.
- 4. APPROVAL OF MINUTES:**  
Ron Ross made a motion to accept the March 28, 2002 minutes. Marianne Mitchell seconded the motion. There was no discussion and the motion passed unanimously, with Gary Filpi abstaining (absent from last meeting).
- 5. ACCOUNTS PAYABLE:**  
Ron Ross said that he doesn't see a reason for budgeted items to go before Council for approval. Items that aren't budgeted should come before Council. Phil Lieberman said that everything the City pays for is budgeted. Phil Lieberman said that certain bills (standards) are separated from the items that are to be approved. Council has always wanted to look at the accounts payable in the past. Marianne Mitchell said that she doesn't want some people (LCAT, Heritage Days, etc.) to have to wait and pay for some expenses out of their pocket. Phil Lieberman said that most people are aware of the City's procedure on paying bills. Gary Filpi said that he wants to see the bills so he knows what is being paid and can ask questions if he has any. Bob Cullen said that he feels that it is important for the Council to deal with the City's business in public, including the accounts payable. Discussion ensued.  
Marianne Mitchell made a motion that bills be paid (that are budgeted) without going to Council for approval. The motion failed for lack of a second.  
Gary Filpi made a motion to accept the accounts payable. Bob Cullen seconded the motion. There was no more discussion and the motion passed unanimously.
- 6. CONSENT AGENDA:**  
Marianne Mitchell asked about the code enforcement officer's consent agenda where he referred to an "attractive nuisance". She asked what that means. Phil Lieberman said that an example of an attractive nuisance is an abandoned house (burned) and it is attractive to kids to play in there and they may get hurt. The attractive nuisance in the 700 block of Adams is a house that the City is in the process of abating. The City is sending them a letter that states that the house must be torn down and if they don't respond, the City will tear it down and charge the owners for doing it. Paul Elsner said that the City has adopted the Uniform Code for the Abatement of Dangerous Buildings and the City will need to follow those procedures. Gary Filpi asked for a copy of Randy Hubbard's daily calendar, which shows the daily activities of Public Works. Staff will include that in the next consent agenda.  
  
Gary Filpi made a motion to accept the consent agenda. Richard Jewell seconded the motion. There was no more discussion and the motion passed unanimously.
- 7. BUSINESS DISCUSSION FROM THE COUNCIL:**  
Marianne Mitchell passed out an email from Laird Bryant of OECD. Marianne Mitchell said that she has been in contact with Laird Bryant about the current financing situation regarding the sewer treatment plant (Marianne read email, but did not present entire email). Laird Bryant requested in his email that the Mayor write a letter to him about the current situation in Lafayette. Laird Bryant also said in his email that he wanted to have a meeting with the City to talk about the financing situation. Mayor Lotis Hanks said that until there is a finished plan, he doesn't know what the City will be facing. Phil Lieberman said that there are other possibilities in exploring this

shortfall, and until the predesign report is done, we don't know how much the shortfall will be. Marianne Mitchell said that she wants to clarify where the extra money will come from. Discussion ensued. The Consensus of Council was that they wanted a meeting set up with OECD to discuss the status of the project and the possible shortfall. Staff will set up a meeting with OECD.

Ron Ross asked if Haylen Meadows has been placed on the Planning Commission agenda for April 18, 2002? Phil Lieberman said that they are not on the agenda because they have not filed the proper paperwork to have their conditions of approval changed. Ron Ross said that the Council assumed that they were going to be on the agenda. Phil Lieberman said that they were told they had to file an application in order to meet a noticing deadline and they did not do it. Discussion ensued. Phil Lieberman said that Haylen Meadows has been filling on their lots, and the geo-tech report was sent to the City Engineer and approved. So, it's just a matter of completing the other items on the punch list.

Richard Jewell made a motion to stop design and engineering on the sewer plant. Joe Giesbers seconded the motion. Discussion- Gary Filpi asked how the City is going to come up with the total project amount. Richard Jewell said that the numbers he has heard are already over budget. Richard Jewell said that he isn't convinced that the industrial site is the best site for a new plant or even if the City really needs a new sewer plant. Richard Jewell said that he thinks the old plant could be modified. Marianne Mitchell said that she would like a two-month time limit put on this motion.

Bob Cullen said that he thinks the value engineering should be done before any decisions are made on this to answer these questions once and for all. It is impractical to stop the engineering at this point. Phil Lieberman said that timing is an important factor to consider. If the engineers continue the project, the final engineering could be done by the end of the calendar year and will the project will be able to go out to bid at the optimal time (middle of next winter), which may bring the project in at a lower cost. Marianne Mitchell said that the City has to figure out how they are going to pay for this plant. Gary Filpi asked about the report from CUB on the sewer plant. Bob Cullen said that Montgomery Watson did a report on the old plant and recommendations were made to improve the old plant to bring it into compliance until the new plant comes on line. The City is making those recommended improvements. If the timeline is pushed farther out, the City runs the risk of over-extending the capacity or life span of the plant. Marianne Mitchell said that it is foolish to proceed with the rest of the design engineering until the City figures out how to pay for it. Gary Filpi said that the current plant is at capacity. Discussion ensued.

Phil Lieberman said that reading the pre-design report from Montgomery Watson will answer many of the questions that the Council has. Phil Lieberman said that the City has had a number of permit violations. Ron Ross said that he would be willing to wait two weeks to review the pre-design report. Phil Lieberman said that he should be able to get the report to put in the packets next week. The motion on the floor was amended to stop the design and engineering on the sewer plant for a period of two months. There was no more discussion and the motion failed with Richard Jewell and Joe Giesbers voting aye, and Ron Ross, Gary Filpi, Marianne Mitchell, and Bob Cullen voting nay.

Marianne Mitchell made a motion to stop the design engineering on the sewer plant for 2 months IF the pre-design report isn't brought to Council within two weeks. Ron Ross seconded the motion. Discussion- Gary Filpi asked staff how confident they are that the report will be finished by the next meeting. Phil Lieberman said that he has seen a draft and he will talk to the engineer to make sure that it is finished. Discussion ensued. There was no more discussion and the motion passed with Richard Jewell, Ron Ross, Marianne Mitchell, and Joe Giesbers voting aye, and Gary Filpi and Bob Cullen voting nay.

## **8. NEW BUSINESS:**

### **a) Leslie Lewis- Volunteer for committee on alt. trans. in Yamhill County (Res. 02-04):**

Commissioner Leslie Lewis said that Yamhill County wants to set up a committee to look into alternative forms of transportation. Yamhill County got a grant from the Council of Governments to study transportation issues in Yamhill County. All communities in Yamhill County will have a representative on this committee. Commissioner Leslie Lewis handed out some material about the committee (see packet) and Dave Bartlett- Director of YCAP (Yamhill County Assistance Program) went through the material.

Commissioner Leslie Lewis said that the committee will meet once a month and they are looking for someone on the Council to volunteer who is a visionary, creative, and solution oriented person. Commissioner Lewis also asked the Council to pass the resolution she handed out, which expresses the communities support for the concept of the committee.

Bob Cullen made a motion to adopt Resolution 02-04, as presented. Ron Ross seconded the motion. There was no discussion and the motion passed unanimously.

### **b) Update from Paul Elsner and Pam Beery on current legal issues:**

Phil Lieberman said that Paul Elsner came to the meeting to update the Council on the pending legal matters facing the City right now. Paul Elsner said that there is no legal activity in Community Development or City Elections right now. The AT&T Franchise is still under negotiation and the City was waiting for McMinnville to finalize their negotiations and those negotiations have been completed. The City should have an extension through June 2002. The firm is also working on a railroad franchise that was granted to the City back in the 1870's, which came up this past summer during the water main replacement project when LZN Excavation had to bore underneath the railroad. There may be a possibility of collecting some franchise fees from them. The joint water project with Dayton is also still underway. Beery & Elsner will continue to represent the City of Dayton, and so they will continue to be involved throughout this project. There are also two lawsuits pending with Lafayette Estates and Lafayette Plantation regarding the issuance of SDC Credits. Pam Beery said that the City has an intergovernmental agreement with Dayton to share all project costs associated with the project. The new City attorney for Lafayette will work with Beery & Elsner on this project. Pam Beery said that she started as the City Attorney in 1994, and then Paul took over when he joined the firm. In some capacity, both Paul and Pam have been working for the City for about 8 years, and they deeply regret that they were put in a position where they felt they had to resign, having lost the confidence of the Council. Pam Beery wished the City luck in finding a new attorney.

Gary Filpi made a motion to take a 10-minute break. Richard Jewell seconded the motion. There was no discussion and the motion passed unanimously. A break was taken at 8:55 p.m. The meeting was called back to order at 9:05 p.m.

### **c) EXECUTIVE SESSION AS ALLOWED BY ORS 192.660(1)(h):**

Trena Cranfill read the following into the record. The Lafayette City Council will now meet in executive session for the purpose of meeting with legal counsel regarding pending litigation or litigation likely to be filed consistent with ORS 192.660(1)(h). Representatives of the news media and designated staff are allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session except to state the general subject of the session. No decision shall be made in executive session. At the end of the executive session, Council will return to open session.

The Council went into executive session at 9:06 p.m.

Mayor Lotis Hanks closed the executive session at 9:30 p.m., and the public was allowed back in the room.

Gary Filpi made a motion to retain Mike Martinez as legal counsel to deal with the issue concerning the SDC Credit lawsuit involving Windsor Properties and Lafayette Plantation. Ron Ross seconded the motion. There was no discussion and the motion passed with Marianne Mitchell voting nay.

### **d) Discussion of City Administrator Contract:**

Ron Ross asked if Phil Lieberman's salary has been amended from what it says in the contract. Phil Lieberman said that the salary was evaluated last March along with the other employees and the Council approved this increase at that time. Council requested a copy of the evaluation approval (increase in salary). Staff provided a copy of the March 2001 minutes. Ron Ross said that this is a rigid agreement and it was not written with the benefit of the community in mind. Discussion ensued. Phil Lieberman asked Ron Ross in what ways he would like to see the City protected? Marianne Mitchell said that the City of Sheridan has a good agreement with their administrator. Phil Lieberman said that in order to change the contract, both parties (City Administrator and Council) have to agree to the changes. Phil Lieberman said that he has no desire to change the contract, especially when he was almost fired a few weeks ago. Marianne Mitchell said that if Phil Lieberman wanted to work with the Council and have their support, he might want to show that he is a little flexible. Phil Lieberman said that the contract already shows that he is flexible since he asked for considerably less than Bob Willoughby was getting in salary, vacation, administrative leave, and severance pay. Discussion ensued. Bob Cullen said that if the Council feels strongly about changing the contract, they need to draft an amended contract and present it to Phil Lieberman for consideration. Phil Lieberman said that he puts in an average of 16 hours per month in meetings, and he only gets 4 hours of administrative leave per month. Phil Lieberman said that he will check with Paul Elsner to see if the employee evaluations (minutes) constitute a legal amendment to the contract.

## **9. OLD BUSINESS:**

### **a) Employee Evaluations:**

Phil Lieberman said that 2 years ago, the procedure was to give a standard 5% increase to everyone. Public Works employees who got certificates throughout the year were also eligible for an additional 5% increase. Last year the procedure was changed to reflect the performance of the individual employee. Employees are now eligible for a 0%, 4%, or 6% raise based on their performance. If employees get a certificate throughout the year, a step is negotiated between the supervisor and City Administrator based on the time since the last raise, the increase in performance due to the class, etc. This year all supervisors and Acting Mayor Neil Meads had a meeting and made recommendations for salary increases (effective July 1, 2002) based on the employee's evaluation. Council said that they would like more time to consider the employee evaluations. Phil Lieberman said that the staff is anxious to know the outcome of this, and the staff would like to have the support of the Council. Marianne Mitchell made a motion to table employee evaluations until the April 25, 2002 Council meeting. Ron Ross seconded the motion. Discussion- Bob Cullen said that he would like to let staff know that he understands that this has been a drawn out process, and this will be a carefully considered decision. There was no more discussion and the motion passed with Gary Filpi voting nay.

### **b) Council Goals and Objectives:**

Bob Cullen said that he would like to see each Council member write down their individual goals and objectives and submit them to staff. Phil Lieberman said that if the Council would like a facilitator to lead a goal setting session, he has a couple of possibilities. Dave Galati, from the Council of Governments, instructed a goal setting session for the last Council, and Allen Hershey, x-director of the Council of Governments, also instructs goal setting sessions. The consensus of Council was to attempt to coordinate a special meeting on Saturday, April 27 with either Dave Galati or Allen Hershey. Council needs to have their list of goals and objectives to staff by Friday, April 19, in order to get it in the packets. Staff will coordinate this special meeting.

### **c) CUB Re-Organization (Review Resolutions):**

Marianne Mitchell said that the two resolutions that staff presented represent two completely different bodies. Ron Ross said that he would like to see more citizens on the committee, and professionals can be called in as needed.

Jackie Carpenter, 818 9<sup>th</sup> Ct.- said that there were 3 citizens on the old CUB and the rest were professionals. There was also a Council liaison (supposed to be non-voting). If there is going to be a committee, she would like to see as many citizens on the committee as possible.

Bob Cullen said that he thinks that subsection 'd' and 'e' of the old CUB resolution are still relevant and could be tasks for the new committee to deal with. Discussion ensued.

Bob Cullen made a motion to table this agenda item. Gary Filpi seconded the motion. Discussion- Bob Cullen said that he would like to see sections a, b, and c excluded from the old resolution and the membership left blank to fill in later. There was no more discussion and the motion passed with Ron Ross voting nay.

### **d) Council Rules:**

Marianne Mitchell said that she would like the Council agenda to reflect what it says in the Council rules. Marianne Mitchell said that some things get changed and the rules don't reflect the changes.

Jackie Carpenter, 818 9<sup>th</sup> Ct.- said that when she was Acting Mayor it was the consensus of Council to move the appearance of interested citizens to the end of the agenda.

The consensus of Council was that they wanted the appearance of interested citizens back to the beginning of the agenda.

Ron Ross made a motion to delete the parts of sections 7.2 and 8.5 of the Council rules that were added on 3/23/00. Joe Giesbers seconded the motion. There was no more discussion and the motion passed with Gary Filpi voting nay.

## **10. APPEARANCE OF INTERESTED CITIZENS:**

Mike Lewis, 580 Jackson St.- said that he filed a complaint with the City and he received the response from Phil Lieberman. He invited the Council to check into his prior employment with the City. Mike Lewis said that it is not the public's responsibility to pay for any personal long distance phone calls made by employees, even if it is for a doctors appointment. Mike Lewis said that public works hours should be changed because it is unfair for citizens to have to pay an additional \$75 between 3:30 and 5:00 p.m. when the office is still open. When the City had 2.5 employees a few years ago, they did 5X as much work as they do now. Mike Lewis said that the parks have a lot of trash in them and the citizens have to pick up the trash. The old water meters that were replaced were worth \$3 a piece and he can't see that they were discarded.

Ron Harris, 1282 Third St., #1- asked if there was an ordinance about trucks using jake brakes in town. They are very loud and are used at all times of the day and night. Deputy Bob Wiro said that the state law only

specifies unmuffled brakes, and almost all brakes are muffled. The City can prepare an ordinance that says that no jake brakes are allowed within the city limits. The Traffic Safety Committee will discuss this. Kenny Schweiger, 710 Water St.- said that he has talked to the director of DEQ and he said that they have never fined a town for non-compliance. \$100,000 for the improvements on the industrial site seems like a low figure. Kenny Schweiger said that he wanted to thank the Council for moving the "appearance of interested citizens" to the top of the agenda.

## **11. CORRESPONDENCE / DISCUSSION / INFORMATION**

The City/County dinner will be held April 18, 2002 in Carlton (Marianne Mitchell, Lotis Hanks+1, and Ron Ross+1 have been signed up).

Phil Lieberman said that he prepared a spreadsheet of the expenditures on engineering and legal services. If Council would like some further detail on this, staff can pull the individual invoices. The majority of the legal costs last year were due to the water project (lawsuit involving the farmers). Staff prepared a list of water and sewer rates in Yamhill County for Council's information.

## **12. COMMITTEE REPORTS:**

### **a) Heritage Days**

None.

### **b) Parks, Open spaces, Wetland & Conservation**

None.

### **c) Community Center Update**

None.

### **d) Public Works**

None.

### **e) Public Safety**

None.

### **f) Planning**

None.

## **13. MAYOR'S REPORT:**

Mayor Lotis Hanks said that he hopes that the Council hasn't shot themselves in the foot with regards to their approach to the sewer plant project.

## **8. NEW BUSINESS:**

### **b) Update from Paul Elsner and Pam Beery on current legal issues:**

The Council needed to deal with the issue of advertising for a new City Attorney under this agenda item. The Consensus of Council was to go ahead and send out the RFQ (Request for Qualifications) to the list of attorneys that was in the packet, and also look into advertising in the League of Oregon Cities publication, News Register, and the Oregonian. Marianne Mitchell said that she would like to request that all applicants submit sample documents that they have written so that they can be reviewed. The Council agreed. Staff will add this requirement to the RFQ and advertise in the proper publications. The deadline set to receive applications is May 10, 2002.

## **14. ADJOURN:**

Bob Cullen made a motion to adjourn. Gary Filpi seconded the motion. There was no discussion and the motion passed unanimously. The meeting was adjourned at 11:02 p.m.

**Minutes approved on this 25th day of April, 2002.**

**APPROVED:**

**ATTESTED:**

---

Mayor Lotis Hanks

---

Phil Lieberman, City Administrator