

City of Lafayette
City Council Meeting Minutes
September 12, 2002
6:30 PM

- 1. CALL TO ORDER:** Mayor Lotis Hanks called the meeting to order at City Hall at 6:30 p.m.
- 2. FLAG SALUTE:** Mayor Lotis Hanks led the flag salute.
- 3. ROLL CALL:** Richard Van Orman, Interim City Administrator, called the roll.
Present: Bob Cullen, Richard Jewell, Lotis Hanks, Marianne Mitchell, Joe Giesbers, Ron Ross, and Gary Filpi.
Absent: None.
City Staff Present: Richard Van Orman- Interim City Administrator, Trena Cranfill-Assistant to the City Administrator, John Yarnall and Denny Muchmore- City Engineer, Andrew Jordan- City Attorney, and Skip Wendolowski- City Planner.
Others: Laura Laird, Kenny Schweiger, Mike Hanks, Cecil Elbert, Ron Harris, George Meitzen, Edwina Meitzen, Stephanie Shaw- Principal of Wascher Elementary, Jim Van Arsdel, Linda Littleton-Bristol, Mike Carpenter, Jackie Carpenter, Ed Casciato, Mike Henry, Tony Bell, and approximately 3 others.
- 4. APPROVAL OF MINUTES:**
Gary Filpi made a motion to accept the August 22, 2002 minutes. Ron Ross seconded the motion. There was no discussion and the motion passed unanimously.
- 5. ACCOUNTS PAYABLE:**
Gary Filpi made a motion to accept the accounts payable. Bob Cullen seconded the motion. Discussion- Bob Cullen asked about the water project payments to Ed Sigurdson. There has been a considerable amount of money paid out to Ed Sigurdson and Bob Cullen said that he would like a breakdown of the engineering that has been done to date. Bob Cullen said that he would like to know what the City is getting for the money. Staff will provide a report of Ed Sigurdson's engineering services at the next meeting. Bob Cullen asked about the \$8,500 payment to the Westside developers. Trena Cranfill said that this is an agreement with the Westside developers for reimbursement as the City collects SDC's for the construction of the 4th Street Pump Station and other improvements. Bob Cullen said that he does not recall any such agreement. Staff will provide a copy of the agreement with the Westside developers and a copy of the spreadsheet that shows the payments made to date. Ron Ross asked about the payment made to Ron Church- what period is this for? Trena Cranfill said that this is the building official fees for the month of August. The building official fees are a percentage of the building fees that the City collects.
Gary Filpi asked about the fees for the repairs on the public works truck. Trena Cranfill said that the truck was parked and was hit by a construction company's vehicle. The construction company paid the City in full for these repairs. There was no more discussion and the motion passed unanimously.
- 6. CONSENT AGENDA:**
Gary Filpi made a motion to accept the consent agenda. Ron Ross seconded the motion. Discussion- Bob Cullen said that he had a concern about the delinquent accounts. Ron Ross asked about the "less moved out" column and Trena Cranfill said that sometimes there are residents that move and don't notify the City. If those residents don't pay their bill within two months, they are turned over to collections.
There was no more discussion and the motion passed unanimously.

Richard Van Orman said that he needed to ask the Council to remove agenda item 9(b) from the agenda and the executive session will be rescheduled for Tuesday, September 17, 2002 at 6:30 p.m. The council agreed.
- 7. APPEARANCE OF INTERESTED CITIZENS:**
Tony Bell, PO Box 1235, McMinnville- said that he has had lots of correspondence with Bob Wallis about the wastewater treatment plant project. Bob Wallis has given a lot of information and advice on things that the City can consider regarding this project. Tony Bell said that he has been speaking with Bob Wallis to try and come up with other ways the City can upgrade the current plant. Small, low cost improvements could extend the life of the plant. (See packet file 9/12/02)
Laura Laird, 820 Jackson Court- said that the contractors that are doing work on the Wilson St. Pump Station are parking their vehicles in the street and obstructing views of other vehicles. Laura Laird said that she has spoken to Deputy Wiros and he said that he will follow up on this with the contractors. Laura Laird said that she has also noticed lights at night in the watershed again this year. No one is supposed to be up there without a

permit, and permit holders are allowed to be up there only during daylight hours. Discussion ensued. Staff will talk to the Sheriff about monitoring the watershed at night.

Ron Harris, 1282 Third St. #1- said that he agrees with Laura Laird in that something needs to be done about unauthorized people getting up into the watershed. This is the City's water supply and it is important to protect it. Jim Van Arsdel, Mineral Springs Rd.- said that he is speaking on behalf of Wascher Elementary School and Measure 19. Measure 19 would authorize the use of the education stability fund principal in specified circumstances; transfers \$150 million from fund to state school fund; creates school capital matching subaccount in stability fund. Mr. Van Arsdel went over the handout he presented to the Council (See packet file 9/12/02).

Stephanie Shaw, Principal of Wascher Elementary- said that she would like to thank the City for working with the school to promote events and the school is glad to help the City out in the same regard. The school closed last year with 302 students and opened this year with 321 students, and one less teacher. The school is not able to provide music or PE to the kindergarten students this year, and there is a loss of after-school athletics for the elementary students. Gary Filpi asked if the measure passes, how quickly will the funds be available? Jim Van Arsdel said that the funds would be available immediately. Jim Van Arsdel said that he will contact staff to set up a joint meeting with the school board.

8. BUSINESS DISCUSSION FROM THE COUNCIL:

Ron Ross asked staff if contact has been made with the railroad about the crossing on Madison Street. Staff has left messages with the railroad and will continue to try and contact them.

Marianne Mitchell said that she wants to discuss the re-instatement of the CUB (Citizen's Utility Board). One of the goals of the CUB was to work with the engineer during the project and be able to bring information to the Council. The consensus of Council is to put this on the next agenda and provide copies of the resolution creating the CUB to the Council. Staff will put this on the next agenda.

Bob Cullen said that he still wanted to talk about the trespassers in the watershed. He said that the City should try to get the Sheriff's office to go up there and investigate this further. Ron Ross said that the City needs to find out how these people are getting access to the watershed. Ron Ross said that if we can find out whose land they are coming in from, we can talk to the landowners and see if they can help. Bob Cullen said that anyone could go for a ride along with the Sheriff to investigate this problem.

The consensus of Council is to move to old business because the City Planner has not arrived yet.

10. OLD BUSINESS:

a) Authorization to enter into MAO (Mutual Agreement Order):

Richard Van Orman said that the Council received a copy of the letter that was sent to Tim McFetridge (DEQ- Department of Environmental Quality) with the City's requested changes to the MAO. Richard Van Orman said that he is asking for authorization to sign the MAO once the changes are accepted by DEQ. Ron Ross said that he still isn't convinced that the City should sign the MAO. Mike Henry said that the City won't get fined further (unless there is a major malfunction) if the City enters into the MAO. The City will, however, have a timetable that must be followed once the MAO is signed. Mike Henry said that his experience with DEQ is that if you ask for an extension in advance, and have solid reasoning, they will usually approve the extension.

Ron Ross asked if the changes that are made to the plant keep the City in compliance, why enter into an MAO? Mike Henry said that the MAO sets out the discharge requirements, and it sets out how the City will follow through with this project. The City is working without a NPDES (waste discharge) permit right now. Why is the City without a discharge permit? Mike Henry said that it expired because the City was in the process of dealing with the problems at the plant and DEQ didn't want to issue a new discharge permit if the City was going to have a new plant online within 2 years. The City will be expected to comply with the new discharge rules. The only reason that the City would not benefit from signing the MAO is if the City had no intent to build a new wastewater treatment plant. The schedule could go as quickly as to begin construction within 1 year. Mike Henry said that with the other cities he has worked with, the MAO's have been in the City's best interest, not DEQ's. Discussion ensued.

Richard Jewell made a motion to authorize the Interim City Administrator to sign the MAO with DEQ. Gary Filpi seconded the motion. Discussion- Joe Giesbers said that he wants to get started on this project. Bob Cullen said that the City should use all of the advantages we have available. It comes down to dollars and cents, and the more we get out of the current plant, the more valuable the new plant will be. Gary Filpi said that the MAO is assurance that the City won't get permit violations in the future. Gary Filpi said that the City doesn't have a discharge permit right now and that is a little scary. Ron Ross said that he feels like there is enough flexibility in this agreement to give the City additional time if it is needed. There was no more discussion, the Council was polled, and the motion passed unanimously.

9. NEW BUSINESS:

a) PUBLIC HEARING: Appeal of Mitchell Partition (01-01-01):

Richard Van Orman and City Planner Skip Wendolowski read the disclosure statements for the hearing as required by Oregon land use law (see packet file 9/12/02).

Mayor Lotis Hanks opened the hearing at 7:40 p.m.

Marianne Mitchell declared a conflict of interest, and she has stepped down from the Council for the purpose of this hearing and she is representing herself as a private citizen.

Richard Van Orman asked if there were any objections to the notice sent out in this case? There were none. To the jurisdiction of this body to hear and consider this case? There were none. Are there any declarations of ex parte contact, conflict, or bias by any members of this body? Ron Ross said that he has had ex parte contact regarding this case. He has known Marianne for 10 years. She has not shown him any documents relating to this case other than a bill that was sent to her by the City, but that is not part of the material presented in the Council packet.

Staff Report:

This hearing is an appeal of the planning commission decision for applicant Marianne Mitchell. She owns property on the North end of Bridge St. (1.6 acres). She requested a partition to divide this 1.6 acre parcel into 3 parcels. Staff originally approved the partition application with conditions in March 2001, and an appeal was filed at that time. The legal counsel at that time determined that the appeal was not filed in a timely manner. The applicant was given the opportunity to re-apply and staff again approved the application with conditions. The second decision was appealed in a timely manner and was brought before the Planning Commission. The Planning Commission reviewed the material and found the proposal did comply with the decision criteria and the Commission upheld the staff decision with regard to the partition. The applicant subsequently filed an appeal to bring this before the City Council. This action occurred late last year, and after numerous requests of both the applicant and the staff, this date was determined to bring it before the City Council.

Skip Wendolowski reviewed the staff report on planning file 01-01-01- Marianne Mitchell (see packet file 9/12/02).

The issue is not with the approval of the partition, it's with the conditions of approval. Skip Wendolowski reviewed the conditions of approval. The issue is with the requirement of engineering plans for water, sewer, and storm drains prior to recording of the final plat.

It is staff's recommendation to uphold the Planning Commission's decision, but the Council has the option of changing or modifying the conditions.

Agency Comments:

Bob Cullen asked how typical it is to require the engineering be done prior to recording the plat. Skip Wendolowski said that this property location is atypical, and the City Engineer expressed his concerns. Now is the time to get the necessary easements so the City can go back and prepare the appropriate lines, instead of after the fact. Otherwise, it could put the City, owner, and/or developer in a difficult position.

Ron Ross asked if a partitioner is considered a developer. Skip Wendolowski said that the terms are one in the same.

Bob Cullen asked if the easements aren't in place, would the City be at a disadvantage because there isn't a plan for water, sewer, storm drains, etc. Skip Wendolowski said that this was the City Engineer's contention.

Bob Cullen asked how difficult it would be to do the easement later, and Skip Wendolowski said that if Haylen Meadows or Red Hills develops further, it could take the issues away from the applicant, but the City is faced making the decision based on the situation now. Richard Van Orman said that there are two new parcels being created from this partition and homes could possibly be built right in the location where the easement should be. Discussion ensued.

Andy Jordan, City Attorney- said that he has reviewed the material in this case and it is legally correct and very well done.

Applicant Testimony:

Marianne Mitchell said that she has presented a "chronology of events" in her case, a letter from her surveyor, and a letter from Don Leard, to the Council (see packet file 9/12/02). Marianne Mitchell reviewed the chronology of events handout. She said that she researched partition fees in the area and she said most cities charge \$150-400, and Lafayette charges \$1,100.

Bob Cullen said that Marianne is asking the Council to disregard the cities planning code- these are adopted rules. Marianne said that her lawyer said that this is not a fair standard and the state doesn't allow it. When the property is divided or rezoned, that is the time for the engineering to be done. Marianne said that the engineering shouldn't be done now, because we don't even know what is going to be built on the property. Discussion ensued.

Ron Ross asked Marianne how much money has been spent on this case, and Marianne said that with all of her direct and indirect costs (change in housing market, remodeling, etc.), it has cost her about \$22,000. Marianne Mitchell said that the City has spent \$4,200, but she was never told she would be obligated to pay more than the \$1,100 fee. Ron Ross said that the City can't hold the applicant responsible for these fees. The resolution says that the City must notify the developer once fees are exceeded before any further action is taken. Andy Jordan said that this is not the subject of the appeal; it is an administrative issue that needs to be dealt with at another time.

Discussion ensued.

Marianne Mitchell said that she showed her partition to the head planner in McMinnville and he said that they don't send partitions to the engineer- it is done at the staff level. She referred to ORS 197.522 which talks about local government authorizing permits. Marianne said that she thinks it is unreasonable to require engineering drawings at this time. Discussion ensued.

Proponents Testimony:

Tony Bell, PO Box 1235, McMinnville- said that the issue seems to be that there should be only one building permit to that 1.28 acre parcel, and when the building permit is issued, Skip could make sure that water, sewer, and storm drains could be provided. Skip Wendolowski said that there would be at least one building permit.

Mike Hanks said that he knows of other partitions where the engineering has been deferred. If the goal here is win/win, then the easements could be dedicated at the time of construction. This condition doesn't seem like it warrants this amount of everyone's time if the issue could be solved at the time that building permits are pulled.

Mayor Lotis Hanks said that he doesn't understand why the original engineering drawings aren't used. Denny Muchmore said that the original drawings were submitted for a subdivision on that property and as they were submitted, they had serious deficiencies according to the City's design standards. Marianne Mitchell disagreed.

John Yarnall said that the original subdivision was submitted in 1996. The drawings addressed Marianne and Don Leard's property. John Yarnall said that the drawings are not suitable now, because they were for two properties and it was for a subdivision.

Gary Filpi asked how specific the engineering drawings have to be and John Yarnall said that the drawings have to show that utility services can be provided to the property.

Discussion ensued.

Opponents Testimony:

None.

General Testimony:

Laura Laird- said that she was the Council liaison to the Planning Commission when this partition was considered and a lot of time was spent considering the options. The Red Hills subdivision fell through a few years ago and there is now someone who is interested in starting it up again. If it is possible, everything should run up 16th Street. Could the conditions of approval be modified so that if Red Hills does improve 16th Street and begin building before she files for building permits, could the requirement that Marianne has to do the engineering, be removed? Skip Wendolowski said that timing will be the issue, and there is no guarantee that the Planning Commission will put that condition in place for Red Hills, and Marianne would also have to wait until those improvements are constructed.

Edwina Meitzen- said that several years ago, a house was built on a piece of property, and after the home was built, they found out that the water main ran right under the house and it ended up costing the City a lot of money.

Kenny Schweiger- asked what engineering has to be done for a bare piece of property. John Yarnall said that the engineering plans are done to lay out the framework for the utilities and determine where the access points will be.

Ed Cashadel- asked why the City can't just enforce a condition that states that at the time of construction, engineering and easements will be provided. Marianne is just trying to sell her property, and if she sells it to a developer, then they will be responsible for the drawings. The 11,000 square foot lot is serviceable now, so the plat can stipulate that drawings must be provided for the rear 1.28 acre parcel prior to the issuance of building permits.

Laura Laird- asked if it would be possible to put in a 20-ft. potential easement. Just because there is an easement on the plat doesn't mean that it ever has to be used. Put in the easement and then it would answer the question of the back parcel being serviceable should 16th Street not be improved. If 16th Street is improved, then the easements wouldn't be used.

Skip Wendolowski said that if Ed's idea would resolve this matter, then it doesn't require any changes to the application. The City would just require the easement as part of the improvement. Skip suggested that the Mayor ask the City Engineer if they would agree to this condition.

Questions from the Council, Staff, or the Audience:

Denny Muchmore said that he heard an idea that building permits would not be issued (on the back parcel) until engineering drawings are submitted. Skip Wendolowski said that that was one of the ideas. Denny Muchmore

said that the concern is being able to service the back parcel. If there is an agreement with the developer that there would be no building on the back parcel until engineering drawings are submitted, it would satisfy their (City Engineer) concerns. Mayor Lotis Hanks asked Marianne Mitchell if she would agree to this condition.

Applicant Rebuttal of evidence or testimony:

Marianne Mitchell asked Skip Wendolowski to review the condition that has just been discussed. Skip Wendolowski said that the partition to divide the property into 3 parcels would be approved. All of the engineering requirements would be deferred until parcel 3 (rear, 1.28 acre parcel) is developed. The City Engineer has testified that the front two lots can be served off of Bridge Street. The plat can be recorded now, and a home can be built on parcel 2, and nothing will occur on parcel 3 until engineering plans are submitted, consistent with the development of the site. If the applicant is willing to accept this as a condition, it will resolve the appeal issues. Skip Wendolowski said that if this is the direction of the Council, then he will modify the conditions and have an order ready for the Council to adopt at the next meeting.

Marianne Mitchell said that she agrees with this condition.

Skip Wendolowski asked Marianne Mitchell if she had anything further to say. She said that she would like to see the final wording of the order and Skip said that he will provide that to her. She asked if the record could stay open until she reviews the final order.

Staff Recommendation:

Skip Wendolowski said that the Council can continue the hearing until the next meeting and staff will return with an order outlining all of the findings in the case and a new set of conditions consistent with what was presented this evening for the Council's consideration at the next meeting.

The hearing would be closed for public testimony tonight. Skip Wendolowski suggested that the public testimony portion of the hearing be closed, direct staff to return with an order and continue deliberations until the next meeting directing staff to return with an order with the appropriate conditions based on testimony this evening. This was the consensus of the Council.

Close Public Testimony:

Mayor Lotis Hanks closed the public testimony at 9:23 p.m.

Council Deliberation:

Continued to the next Council meeting.

Council Decision:

Continued to the next Council meeting.

Close Hearing:

Continued to the next Council meeting.

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 9:24 p.m. The meeting was called back to order at 9:33 p.m.

b) EXECUTIVE SESSION AS ALLOWED BY ORS 192.660 (1) (a):

This agenda item was tabled until Tuesday, September 17, 2002 at 6:30 p.m.

c) Discussion with Westech about engineering services:

Ron Ross asked why all of the issues that Westech handles seem to be so difficult. There seems to be a lot of problems where no one will budge or negotiate. Westech is paid a lot of money, and that money could almost pay for an in-house engineer.

John Yarnall said that Westech Engineering began as City Engineer in 1996. Since that time there has been substantial growth. The City has platted over 400 lots in that amount of time. Each property has its own set of circumstances, and some are easier to build on than others are. When Westech was hired, the City was still operating on design and construction standards from 1983. At the City's request, those documents were updated, which costs money. John Yarnall said that they are here to provide professional services at the request and direction of Council and staff. If the staff directs Westech to provide a lesser degree of service, they can do that. Ron Ross asked why so much time and energy has to be spent to reach a resolution on issues. John Yarnall said that the City sets the policy and they review the code and make recommendations for conformance based on the code. Discussion ensued.

Marianne Mitchell said that she feels that Westech is not providing the City with information it needs. She said that when direct questions are asked, Westech finds a way around the question. Bob Cullen said that the City needs to nurture the relationships with developers, because they bring in SDC's which are needed to pay the bond payments. Bob Cullen said that he does not want the developers to go away angry and frustrated, but that

seems to be the prevailing opinion among most of the developers that deal with Westech and he would like to see that stop.

Ron Ross asked about the City's I&I problem, and why Westech has not proposed a program to resolve this. Ron Ross said that a City Engineer shouldn't have to be asked before they do a job. If the engineer recognizes a problem within the City, they can present a recommended course of action to the Council. John Yarnall said that they represent a dozen small communities and the relationship with each one is different. There are some communities where they ask for the broader scope of work, where they expect them to make recommendations and go beyond what is asked of them. There are also communities where the engineer only does the City projects and what is asked of them and that is what Westech has thought Lafayette wanted until now. If the Council's desire is that they would like Westech to provide the more global scope of services, they are willing to do that. Discussion ensued.

Lotis Hanks asked if it would help if Westech attended some of the planning commission meetings, and John Yarnall said that it would. The more time they can spend with the Council and the planning commission, the better understanding they will have of what is expected of them.

The consensus of Council is that they would like to meet with Council again in November. Staff will put this on an agenda.

Bob Cullen said that Council needs to make it clear to staff what the Council's expectations are of staff and also from the contract engineer.

Staff will provide a breakdown of Westech's engineering services for the next meeting.

10. OLD BUSINESS:

b) Draft Council Ground Rules:

This agenda item was tabled until the next meeting.

c) Draft Park Rules:

Richard Van Orman said that the attorney has made changes to the park rules per Deputy Wiro's comments at the last meeting. City Attorney Andy Jordan said that the changes are in section b(2) about disorderly conduct. He has used the statutory definition of disorderly conduct and it more than covers the City's concerns.

Richard Jewell said that he had some concerns about the restrictions on baseball. Andy Jordan said that this restriction allows the City to decide where they want or don't want baseball to be played. Andy Jordan said that the other section that was changed was the section on weapons. Those permitted to carry weapons can carry weapons.

Bob Cullen made a motion to adopt Ordinance 549 at a single meeting and read the ordinance by title only. Gary Filpi seconded the motion. Discussion- Laura Laird asked about the alcohol provision in the park rules. Laura Laird said that there has been a problem with alcohol in the parks. There was discussion about the allowance of alcohol in parks. Richard Jewell and Ron Ross said that alcohol should only be allowed by permit (e.g. Heritage Days), Gary Filpi, Marianne Mitchell, and Bob Cullen said that the ordinance is fine as written. Joe Giesbers was undecided on the issue. Richard Van Orman read the ordinance by title only- an ordinance adopting park rules and regulations; and amending Lafayette City Code Sections 5.550-5.560. Bob Cullen made a motion that ordinance 549 pass to a second reading. Gary Filpi seconded the motion. There was no discussion and the motion passed unanimously. Richard Van Orman read the ordinance by title only.

There was no more discussion, the Council was polled, and the motion passed with Ron Ross voting nay.

11. CORRESPONDENCE / DISCUSSION / INFORMATION:

There is an MWACT (Mid-Willamette Area Commission on Transportation) meeting on October 3, and an RSVP must be received by September 26. The City/County Dinner on October 17 will be held at the Yamhill County Historical Society Log Cabin.

Richard Van Orman said that Mike Henry needs to address the Council quickly. Mike Henry discussed possible population projections (4,104- Westech facilities plan, 5,103- Montgomery Watson plan, and 4,962-facilities plan and PSU population). The consensus of Council is that Mike Henry should try to justify the 3rd option, 4,962. Mike Henry said that he needs to set up a meeting with Public Works. Staff said that they will contact Mike Henry when a meeting is set up. Mike Henry said that the Council needs to think about whether they want to deal with the I&I problem.

Richard Van Orman suggested that Mike Henry be placed on each Council agenda for a few minutes to discuss updates on the sewer treatment plant project. Council agreed. Staff will put Mike Henry on the Council agenda. Richard Van Orman said that the packet contains a letter from the attorney stating that it is not necessary to go out for a new RFP to negotiate the design phase of the sewer plant. There is also a status report of the Lafayette/Dayton water project.

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 spoke to Fire Chief Terry Lucich about the decision that was made regarding the requirement of installing a fire hydrant prior to the issuance of building permits on 2nd Place Circle (Don Leard). The mayor encouraged Terry Lucich to take at least 24 hours to look at the City's requirements and to review each situation carefully.

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 10:43 p.m.

Minutes approved on this 26th day of September, 2002.

APPROVED:

ATTESTED:

Mayor Lotis Hanks

Richard Van Orman, Interim City Administrator