

City of Lafayette
City Council Meeting Minutes
November 11, 2004
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:** Diane Rinks, City Administrator, called the roll.
Present: Edwina Meitzen, Michael Roberts, Mayor Lotis Hanks, Ron Ross, and Bob Cullen (arrived late at 6:39 p.m.).
Absent: 2 vacancies.
City Staff Present: Diane Rinks- City Administrator, Trena McManus- Assistant to the City Administrator, Denny Muchmore- City Engineer, Andy Jordan- City Attorney, and Jim Anderson- Public Works Foreman.
Others: Steve Malone, Melodie Malone, Don Leard, Peder Mikkelson, Sara Mikkelson, Art Bixman, Betty Roberts, Lisa Heatherly, Carrie Richter- attorney for WD Builders, Mark Hoyt- attorney for Green Heights, Norm Hill- attorney for Lafayette Highlands, Chad Gooch, Dan Wilson, Howard Long, Violet Long, Laura Laird, Cecil Elbert, Joseph Cook- Western Oregon Waste, Kim Schweiger, Kenny Schweiger, and approximately 3 others.

4. **APPROVAL OF MINUTES:**

Ron Ross made a motion to accept the October 14, 2004 minutes. Edwina Meitzen seconded the motion. There was no discussion and the motion passed unanimously.

5. **REVIEW OF PROCEEDINGS AND APPROVE MINUTES OF SPECIAL MEETINGS:**

This agenda item was postponed until later in the meeting.

6. **ADDITIONS AND DELETIONS:**

Diane Rinks said that she would like to add the fire department report as Departmental report #4. She also added Action item #3- Intergovernmental agreement with Carlton for judge services, and Action Item #4- Service agreement with Adolfsen and Associates for additional environmental work. There were no other additions and deletions.

7. **PUBLIC HEARINGS:**

1. Request for Formation of Reimbursement District- WD Builders, Inc.:

Mayor Lotis Hanks opened the public hearing at 6:35 p.m.

City Attorney Andy Jordan said that this is a public hearing on the formation of a reimbursement district pursuant to City Code. It is not a land use hearing. Anyone can comment on the formation of the reimbursement district. The code says that if the district is formed before the improvements are completed, then there is a 2nd hearing if it is necessary to adjust the amount of the allocation subject to reimbursement. Andy Jordan recommended having a staff report first (by City Engineer), followed by applicant testimony, affected parties, other interested persons, and then allow the City Engineer and applicant to make closing comments. The Council agreed.

Bob Cullen arrived at 6:39 p.m.

Staff Report

Denny Muchmore said that there are three subdivisions (Green Heights, Lafayette Highlands, and Stoller Village) that have received land use approval on the east side of town. These three subdivisions are all in the same drainage basin, and the storm drainage ultimately flows to the same place. As part of the land use approval for all three subdivisions, one of their conditions of approval was to submit a storm drainage plan that demonstrates that runoff from their development will not cause damage to existing downstream properties. A significant portion of the drain channel lies within the boundaries of the Stoller Village subdivision, and so they ended up doing the design of the storm drain improvements. The design included constructing a new storm drain pipe offset from the channel that carried the majority of the flows around the existing channel and dumped back in downstream below the point where there is potential for erosion damage. Stoller Village has constructed the improvements and they are near completion, but the City will not officially accept them until all of the subdivision improvements are complete. Stoller Village is now requesting that a reimbursement district be formed. The City Code says that a reimbursement district can be formed if a public improvement is constructed, and if it has a direct benefit to other properties. The total

cost of the improvement is \$136,400, and the amount eligible for reimbursement is \$121,776. There would be 289 lots in the district.

Discussion ensued.

Applicant Testimony

Carrie Richter (attorney for WD Builders), spoke on behalf of the applicants, Dan and Don Wilson of WD Builders. She said that city staff, Division of State Lands, Green Heights and her clients worked hard over the last few months to come up with a solution to the drainage problems that the three subdivisions face. This is a question of sharing costs and all three subdivisions will benefit from the improvements that her clients are asking for reimbursement on.

Affected Parties

Mark Hoyt (attorney for Green Heights) said that everyone has worked hard to come up with a means to get the storm water around the existing ditch. He said that his clients are not taking a position on whether a district should be formed or not. If one is established, they will participate and not contest it. However, he feels that this request is premature. There were some improvements that Green Heights had to make that are eligible for reimbursement. They are trying to settle this with the other developers without coming to the Council for a reimbursement district. If they are not able to reach a settlement, they will be before the Council at a later time asking for a reimbursement district and he thinks it should all be done at the same time. Mark Hoyt said that the code requires a second hearing in the formation of the reimbursement district. Mark Hoyt discussed documentation that he handed out to the Council (see 11/11/04 packet file) regarding the requests from WD Builders for reimbursement prior to coming to Council, and how his client could have done the work for cheaper. Discussion ensued.

Norm Hill (attorney for Premiere Builders, which will be building on Lafayette Highlands phase 1) said that he doesn't feel that this reimbursement district should be approved for a couple of reasons. He and his clients have the same concerns that were conveyed by Mark Hoyt about the costs of doing the project. He said that a developer doesn't get the opportunity to apply for a reimbursement district unless the applicant can prove that he is required to put something larger in than would normally be required. In this case, Stoller Village was required to put in the improvements that they are now asking for reimbursement on. The second reason is that they gave already- they had to engineer for the water that runs on to their property from property that is outside of the urban growth boundary (city limits), and from other properties outside their subdivision. They are not asking for reimbursement for those costs because it is part of the cost of doing business. You don't try and pass it on to your neighbor. The third reason is that this doesn't set a good precedent for the City. The better way to deal with this is to appeal the conditions of approval when they are given to the developer. Discussion ensued.

Other Interested Persons

There were none.

Closing Comments

Carrie Richter said that she and her clients have been trying to get these issues resolved with Green Heights and Lafayette Highlands since August. It was crucial to get these improvements in the ground by the wet season. This reimbursement district is for a particular improvement, and she doesn't want to complicate the issue with a bunch of other improvements. Green Heights and Lafayette Highlands have the same opportunity to submit for reimbursement just as WD Builders has. Discussion ensued.

Carrie Richter said that recovery of costs occur through reimbursement districts all the time. A delay in this decision would confuse an already complex issue.

Michael Roberts asked if Green Heights and Lafayette Highlands were not being built, would Stoller Village still be required to put in the size pipe that they have been required to.

Denny Muchmore said that the existing pipe that used to go across 7th Street Extension was a 30-inch culvert. That was the size that was necessary to drain the undeveloped basin upstream. Once the new subdivisions built, it would not accommodate their flows. The City's standards require that when a developer builds a subdivision, that he oversize his facilities to the extent that it is necessary to serve the upstream properties. Discussion ensued. Denny Muchmore said that in response to the potential of a sanitary sewer (or other improvement) reimbursement district being formed as part of any of the subdivisions, it cannot be done jointly with this storm water reimbursement district request. The code states that a separate reimbursement district would be required for each class of utility.

The code states that the City has to look at whether the costs for constructing the improvements are reasonable based on current market rates in the area. The question is not whether it could have been done cheaper or not. Ron Ross asked about the second public hearing on this matter, and Andy Jordan said that the second hearing is only to readjust the cost based on actual numbers. It would not be on the matter being considered tonight (whether to form the reimbursement district). Discussion ensued.

Mayor Lotis Hanks closed the public hearing at 7:03 p.m.

Council Deliberations

Ron Ross said that he feels that a reimbursement district is appropriate because everyone will benefit from the bigger pipe.

Michael Roberts said that his understanding is that a reimbursement would be due if the developer had to put an improvement in that he normally wouldn't be required to. Michael Roberts didn't feel that Stoller Village is being asked to do anything above and beyond what they would be required to do anyway.

Diane Rinks said that the code automatically requires oversizing pipes to accommodate future upstream developments, so it doesn't have to be redone once the other subdivisions build. It was a condition of approval for all three subdivisions to have to put this storm drainpipe in. Stoller Village decided to install it first and then ask for reimbursement from Green Heights and Lafayette Highlands later. It is a benefit to the other subdivisions to have this pipe already in the ground. Edwina Meitzen said that she feels that all 3 subdivisions should have to share in the cost for this improvement since they will all benefit from it. Discussion ensued.

Ron Ross made a motion to adopt Resolution 2004-22, as presented. Edwina Meitzen seconded the motion. Discussion- Michael Roberts said that he doesn't agree with the reimbursement district because he feels that Stoller Village would have had to pay for the oversized pipe anyway.

Ron Ross said that the developers can't control where the subdivisions lie and they all benefit from this storm pipe and everyone should have to contribute. There was no more discussion, the Council was polled, and the motion passed with Ron Ross, Edwina Meitzen, and Lotis Hanks voting aye, and Michael Roberts and Bob Cullen voting nay.

A break was taken at 8:17 p.m. The meeting was called back to order at 8:25 p.m.

5. REVIEW OF PROCEEDINGS AND APPROVE MINUTES OF SPECIAL MEETINGS:

Bob Cullen made a motion to accept the October 13, 2004 Council work session minutes. Edwina Meitzen seconded the motion. There was no discussion and the motion passed, with Ron Ross and Michael Roberts abstaining (they were absent at that meeting).

8. CITIZEN INPUT ON NON-AGENDA ITEMS:

None.

Mayor Lotis Hanks moved agenda item 10(5) to this point of the agenda.

10. LEGISLATIVE ACTIONS:

5) Resolution 2004-24- Authorize Solid Waste Rate Increase (Western Oregon Waste):

Diane Rinks said that according to the City's franchise agreement with Western Oregon Waste (City Sanitary), there is a section that allows for a CPI rate increase each year.

It is also time to start negotiations on a new franchise with Western Oregon Waste, and staff will be starting this as soon as possible.

A representative from Western Oregon Waste will be coming before the Council in January to talk about additional recycling services that they will be offering to their customers.

Bob Cullen made a motion to adopt Resolution 2004-24, as presented. Ron Ross seconded the motion. There was no more discussion and the motion passed unanimously.

Mayor Lotis Hanks moved agenda item 9(2) to this point of the agenda.

9. DEPARTMENTAL REPORTS:

2) Public Works report:

Edwina Meitzen asked Jim Anderson what a 'bio bag' is, and Jim Anderson said that it is an orange mesh bag that has wood chips in it that keeps debris on construction sites from flowing into the storm drains. The bags are furnished by the construction companies and public works disposes of them when they are finished.

Ron Ross asked if the paving has been scheduled for the area next to the post office yet and Jim Anderson said that they are getting some bids right now and hopes to have it done in the next week or so.

There was some discussion about grading/graveling the shoulders of the streets in the older part of town.

Edwina Meitzen asked how the Lafayette/Dayton wells and water lines are working and Jim Anderson said that everything is working well. Lafayette is getting about 100 gpm from the Dayton reservoir right now.

Jim Anderson said that they have been very busy dealing with water leaks over the last few weeks.

Discussion ensued.

1) City Administrator report:

Diane Rinks said that she wanted to give the Council an update on the status of the sewer fund, and provided the Council with sewer fund projections over the next few years and the additional funds that need to be raised to meet the bond obligations (reserves, revenues generated, next year's bond payment, etc.).

Ron Ross said that something has to be done to build the City's reserves, and just because the City collects more money one year doesn't mean it should be used immediately. It should be saved for future payments. There was some discussion about the prepayment of bond principal.

Diane Rinks asked if the Council would like the sewer rate increase to be put on the December Council agenda for further discussion and the Council agreed.

2) Accounts Payable report:

There were no questions on this report.

3) Fire Department report:

Added by Diane Rinks under Additions and Deletions.

There were no questions on this report.

10. LEGISLATIVE ACTIONS:

1) Resolution 2004-20- Renewal of VFW Flag Contract:

Bob Cullen made a motion to adopt Resolution 2004-20, as presented. Ron Ross seconded the motion. There was no discussion and the motion passed unanimously.

2) Resolution 2004-21- Budget Transfer:

Bob Cullen made a motion to adopt Resolution 2004-21, as presented. Ron Ross seconded the motion. There was no discussion and the motion passed unanimously.

3) Resolution 2004-22- Formation of Reimbursement District:

This agenda item was addressed under the public hearing (7).

4) Resolution 2004-23- Amend Water and Sewer rates:

Diane Rinks said that this resolution moves \$2 from the minimum water rate and moves the \$2 to the sewer rate. It will not affect the overall cost for the residents. This switch will be a start to building up the sewer fund to where it should be. It is projected that another \$4 increase to the sewer rate will be necessary to bring the City into compliance with the bond requirements, as we are technically in default at this time.

Bob Cullen made a motion to adopt Resolution 2004-23, as presented. Ron Ross seconded the motion. There was no more discussion and the motion passed unanimously.

11. ACTION ITEMS:

1) Mayor's Appointment to fill Council vacancy:

Mayor Lotis Hanks said that anyone who is interested in being on Council needs to fill out an application and turn it in to City Hall by the first week of January.

2) Approve Intergovernmental agreement for TGM Grant:

Diane Rinks said that the Council has already reviewed the draft scope of work for this project. The City's share of the project cost will be through in-kind services (staff time, copying costs, etc.)

Bob Cullen made a motion to approve the scope of work for the Lafayette Industrial Transportation Refinement Plan and authorize the City Administrator to sign the Intergovernmental agreement with ODOT and the TGM program for the TGM grant in an amount not to exceed \$45,574. Michael Roberts seconded the motion. There was no discussion and the motion passed unanimously.

3) Intergovernmental agreement with Carlton for judge services:

Diane Rinks said that the City has had an intergovernmental agreement with Carlton for judge services for many years now. This is an annual contract that is up for renewal. Michael Roberts asked how many hours a month the judge works, and Diane Rinks said that it just depends on how many items we have on the docket. It is usually only an hour or two a month. There was some discussion about the number of tickets that are being written into Municipal Court. Edwina Meitzen made a motion to authorize the City Administrator to enter into an agreement with Carlton for judge services. Ron Ross seconded the motion. There was no discussion and the motion passed unanimously.

4) Service agreement with Adolfson and Assoc. for additional environmental work:

Diane Rinks said that NOAA (National Oceanic and Atmospheric Association) is charged with overseeing the endangered species act (in regards to fish), and they have rejected the Corps of Engineers recommendation for an informal consultation for a 404 permit, which is needed to build the wastewater treatment plant (in stream work). They are requesting formal consultation, which results in further questions that need to be addressed. Discussion ensued. A coordinating effort will be made by HBH Engineering and Adolfson and Associates to supply the additional information to NOAA. Adolfson has proposed a not to exceed \$2,000 amendment to their contract for this service.

Ron Ross made a motion to authorize the City Administrator to enter into an agreement with Adolfson and Associates, Inc. for additional assistance in obtaining required permits for the Wastewater Treatment Plant project, for time and materials, not to exceed \$2,000. Bob Cullen seconded the motion. There was no discussion and the motion passed unanimously.

12. DISCUSSION ITEMS:

Ron Ross asked if the City has gotten written permission from Ezra Koch to use the Industrial property for sludge disposal yet. Diane Rinks said that Mike Henry (HBH Engineering) has been dealing with the Koch's on this and he has been out of the office. She expects to hear from him in the next couple of weeks on this. Mayor Lotis Hanks encouraged everyone to attend the SOLV training that will be held at the Lafayette Community Center on November 13 from 9 a.m. to 1 p.m. This training is to prepare for the 10 (grant funded) improvement projects that will be done throughout town in the next few months.

13. COMMITTEE REPORTS:

None.

14. MAYOR'S REPORT:

None.

15. REVIEW OF HANDOUT MATERIAL:

None.

Bob Cullen said that he will not be able to attend the December 9 meeting.

16. ADJOURNMENT:

Bob Cullen made a motion to adjourn. Michael Roberts seconded the motion. There was no discussion and the motion passed unanimously. The meeting was adjourned at 9:22 p.m.

Minutes approved on this 9th day of December, 2004.

APPROVED:

Mayor Lotis Hanks

ATTESTED:

Diane Rinks, City Administrator