

**City of Lafayette**  
**City Council Meeting Minutes**  
**September 14, 2006**  
**6:30 PM**

- 1. CALL TO ORDER:** Mayor Don Leard called the meeting to order at City Hall at 6:30 p.m.
- 2. FLAG SALUTE:** Mayor Don Leard led the flag salute.
- 3. ROLL CALL:** Diane Rinks, City Administrator, called the roll.  
*Present:* Mayor Don Leard, Lisa Heatherly, Michael Roberts, Art Bixman, and Bob Cullen.  
*Absent:* Jim Sieber (exc.), 1 vacancy.  
*City Staff Present:* Diane Rinks- City Administrator, Trena McManus- Assistant to the City Administrator, and Walt Wendolowski- City Planner.  
*Others:* Betty Roberts, Kenneth Westfall, Brenda Westfall, David Horner- McMinnville School District, Chris Pagella, Beth Pagella, Terry Webster, Ralph Betts, Teresa O'Halloran, Mark Nelson, Julio Gomez, Cyndie Gomez, Monique Streech, Michael Streech, Sergeant Tim Svenson- Yamhill County Sheriff's Office, Darrell Flood, Michelle Huff, Mark Hoyt- attorney for Joe Green, Teha Kordich, Mark Scarborough, Ivona Scarborough, Ted Mullin, Jeff Mullin, Don Gonzales, Diana Gonzales, and approximately 5 others.
- 4. APPROVAL OF MINUTES:**  
Art Bixman made a motion to accept the August 10, 2006 minutes. Bob Cullen seconded the motion. There was no discussion and the motion passed unanimously.
- 5. REVIEW PROCEEDINGS AND APPROVE MINUTES OF SPECIAL MEETINGS:**  
None.
- 6. ADDITIONS AND DELETIONS:**  
Diane Rinks said that she would like to delete agenda item 12(1)- Work Session- door to door sales and garage sales- possible Ordinance revisions, and replace it with a discussion about the status of the Wastewater Treatment Plant project.  
Art Bixman made a request to have a discussion item placed on the next agenda regarding the refinancing of the water and sewer bonds.  
There were no other additions or deletions.
- 7. PUBLIC HEARINGS:**
  - 1. Request for change of Condition of Approval- Joe Green**  
Open Hearing  
Mayor Don Leard opened the hearing at 6:32 p.m.  
This public hearing is on planning file 06-08-14, an amendment to subdivision application approved in 2003 (specifically condition of approval 'E4' of planning file 02-09-17).  
Read Disclosure Statement  
Walt Wendolowski read the following disclosure statement- An issue which may be the basis for an appeal to LUBA shall be raised not later than the close of the record at or following the final evidentiary hearing on this case. Such issues shall be raised with, and accompanied by, statements of evidence sufficient to afford the City Council and those attending the hearing an adequate opportunity to respond to each issue. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the city to respond to the issue precludes an action for damages in circuit court.  
The criteria upon which this case will be decided are found in the Lafayette Zoning and Development Ordinance, Section 3.107 (Subdivision). Specific criteria are summarized in the staff report and will be reviewed during the hearing. All testimony and evidence received during this public hearing must be directed toward the criteria or to such rule, law, regulation or policy which you believe to apply.  
The case will proceed with the staff report followed by the applicant and all those who are in support of the application. All those who are opposed to the application will then be allowed to speak, followed by those with general comments who are neither for nor against this application. The Council or staff may question the applicant and those who testified; the applicant will be given a final opportunity to rebut any testimony or evidence.  
Generally, the applicant is entitled to 20 minutes to make a presentation. All other speakers should try to limit their comments to 10 minutes. Please try to avoid repetition if someone has previously expressed the same thought; it is perfectly acceptable to state you agree with another's statement. Please be assured, however, everyone will have an opportunity to speak.  
If you have any documents, maps or letters that you wish to have considered by the Council, they must be formally

placed in the record of this hearing. To do that, either before or after you speak, please leave the material with staff, who will make sure your evidence is identified and placed in the record.

Prior to the conclusion of a hearing on a land use application, any participant may request an opportunity to present additional evidence or testimony regarding the application. If such a request is made, it will be up to the Council to determine if the hearing will be continued to a time and date certain, or if the record will be kept open for submission of additional evidence or testimony. If the record is kept open, it will be for a minimum of seven days, with a short rebuttal period thereafter afforded to the applicant.

Mayor Don Leard asked if there are any objections to the notice that was sent in this case? There were none. To the jurisdiction of the Council to hear and consider this case? There were none. Are there any declarations of ex parte contact, conflict, or bias by any members of the Council? There were none.

### **Staff Report**

Diane Rinks said that she wanted to provide some background on how this change of condition of approval came about. She said that in March of 2006, she was contacted by Mark Hoyt (attorney for Joe Green) to see if the City had an interest in selling the two lots back to the developer that were to be dedicated as park land. At the time, the City was looking at an opportunity to acquire some additional park land to meet obligations on another project (Madison St. bridge). The money that would be collected from these two lots would help the City be able to acquire a bigger parcel of park land that may benefit the City more than a pocket park. The possibility of selling these lots with the hopes of acquiring a larger parcel, was discussed during the budget process this last year with the Budget Committee and the Council, and the consensus was to pursue the option of selling the lots. Discussion ensued.

Walt Wendolowski said that in 2003, the City approved a 172-lot single family subdivision, and one of the conditions of approval stated that, "The developer shall dedicate a minimum of two lots for the purpose of establishing a city park. The park area shall be at least 10,000 square feet with the final location to be accepted by the City prior to recording." The developer is now asking for the elimination of this condition, therefore, not dedicating the land for a public park, and making payment in lieu of dedicating the land.

The City did not receive any comments from affected agencies on this application.

Note: There were 4 letters received from adjacent owners expressing their opposition to this application.

This condition of approval that was placed on this subdivision in 2003 was mutually agreed upon, and was not a required condition per the City's code. The City's Parks Master Plan does not address the need for a small park in this area. Walt Wendolowski said that staff's recommendation is to amend condition of approval 'E4' to state, "The developer shall dedicate a minimum of two lots for the purpose of establishing a city park. The park area shall be at least 10,000 square feet with the final location to be accepted by the City prior to recording. As an alternative, in lieu of dedicating the park land, the applicant shall pay a negotiated sum to the City's dedicated park fund."

Michael Roberts said that the homeowners association would be responsible for maintaining the park, but he wanted to know if it would be a public park, or would it be restricted to the residents of the subdivision. Walt Wendolowski said that it would be a public park. Bob Cullen asked how many "pocket parks" the City currently has and Diane Rinks said two (one in Lafayette Plantation and one in Lafayette Estates). Lisa Heatherly asked who would be responsible for developing this 10,000 square foot park (City or homeowners association). Diane Rinks said that that was not clarified when the condition was placed on the subdivision, therefore, the responsibility would probably fall to the City. Discussion ensued.

### **Agency Comments**

Walt Wendolowski said that he had nothing further to report.

### **Applicant Testimony**

Mark Hoyt (attorney for Joe Green, applicant)- said that his client was not the original applicant on this subdivision when this condition of approval was put in place. He approached the City about the possibility of buying back the lots, and there was some interest in doing that, so he went ahead with the formal application process. He said that "pocket parks" are not generally utilized, and he feels that it would be better for the City to accept the buyout of this condition of approval and use the money for a larger piece of park land elsewhere in the City. He said that there is nothing in the City's code that says this condition must be in place. If these two lots were developed, it would provide 2 more SDC's for the City. Wascher Elementary School already provides an established playground for the kids in the area to utilize without having to travel a long distance. He said that "pocket parks" typically don't thrive.

### **Proponents Testimony**

There were none.

### **Opponents Testimony**

Ralph Betts, 902 12<sup>th</sup> Street- said that he feels that the park should remain part of the subdivision. Potential buyers of Lafayette Highlands Phase I were told that there was going to be a park in the subdivision, and this was a selling point for a lot of people. He doesn't feel that the City should allow the developer to buy the lots back.

Teha Kordich, 1054 E. 14<sup>th</sup> Street- said that she home schools her kids, and Wascher Elementary's playground isn't available during the day when school is in session. She also doesn't have a car during the day and it would be nice to have a place that she could walk to with her kids to play. When they were considering purchasing their house, the creation of this park was a selling point for her.

Chris Pagella, 446 E. 16<sup>th</sup> Street- said that he recently moved from Hillsboro and was involved in a homeowners association there. They had a pocket park, and it was successful. He questioned the part of the staff report that stated that as part of the findings for the dedication of the two lots, that the City had an immediate need for park space within the vicinity of the subdivision. He wanted to know how the City could say that 3 years ago, and are now considering doing away with this park.

Michelle Huff, 863 16<sup>th</sup> Street- said that she came from an area where pocket parks were successful, and thinks that they could be here too. The other City parks are not neighborhood parks, and they need a lot of work. The City needs a place for families to take their kids to play.

Monique Streech, 1053 E. 14<sup>th</sup> Street- said that she is the President of the Homeowners Association for Lafayette Highlands, Phase I, and she would really like to see a park put in the subdivision to help build a sense of community. She said that the developer is just proposing this to have an opportunity to make more money. This is an opportunity for the Council to set a precedence about making it a priority to have green spaces within the community.

Don Gonzales, 1051 E. 12<sup>th</sup> Street- said that the homeowners association really cares about the community and the kids need a decent place to play. He feels that the park should stay in the subdivision.

Julio Gomez, 1114 14<sup>th</sup> Street- said that the subdivision needs a park (nice place for the kids to play), because he wouldn't take his kids to any of the other City parks (due to their condition).

Ken Westfall, 864 16<sup>th</sup> Street- said that he came to the meetings 3 years ago when the subdivision was approved, and he was opposed to the zone change then. But, he feels that kids need parks and it should not be sold back to the developer.

### **General Testimony**

Betty Roberts, 160 W. 13<sup>th</sup> St.- said that she lives in a subdivision with a homeowners association and a "pocket park", and it is just overgrown dirt and weeds. She said that the homeowners associations need to make the developers use quality materials. She said that expect that it will take at least 3-5 years to develop the park.

### **Questions from the Council, Staff, or the Audience**

Darrell Flood, 287 Canyon View Drive- asked about the status of the negotiations of the larger piece of park land on 4<sup>th</sup>/5<sup>th</sup> Street. Diane Rinks said that she has not heard from the property owner lately, but she is hoping that negotiations will continue, but there is no guarantee at this point. Darrell Flood asked if the deal with this park property on 4<sup>th</sup>/5<sup>th</sup> Street falls through, then can the money that is budgeted for this purchase be used to develop the City's 3 parks and Diane Rinks said yes.

Ralph Betts, 902 12<sup>th</sup> Street- said that if the City had this park, small kids wouldn't be playing in the street, with vehicles speeding down the street.

Chris Pagella, 446 E. 16<sup>th</sup> Street- asked for some clarification on the staff report where it talked about the City's immediate need for park land. Walt Wendolowski said that at the time the condition was placed on the subdivision, the City Council had to establish findings to justify the placement of the condition of approval. In 2003, the Council felt that there was a need for park land, and this 'pocket park' would be an asset for the City. However, over the last 3 years, the Council has changed, new goals have been set for the City's park system, and priorities have shifted towards looking at larger parcels of park land.

Discussion ensued.

### **Applicant Rebuttal of Evidence or Testimony**

Mark Hoyt said that it is not about whether the City needs parks, it's where and what kind of parks they should be. He said that the Council has to figure out what is best for the City.

He also pointed out that none of the people in the audience tonight will be responsible for maintaining this park. A separate Homeowners Association will be established for Green Highlands (2<sup>nd</sup> phase of Lafayette Highlands) and they will be responsible for this park, but none of those houses have been built yet.

### **Staff Recommendation**

Walt Wendolowski said that staffs recommendation is to amend condition of approval E4 of planning file 02-09-17 to state, "The developer shall dedicate a minimum of two lots for the purpose of establishing a city park. The park area shall be at least 10,000 square feet with the final location to be accepted by the City prior to recording. As an alternative, in lieu of dedicating the park land, the applicant shall pay a negotiated sum to the City's dedicated park fund."

**Close Public Testimony**

Mayor Don Leard closed the public testimony at 7:50 p.m.

**Council Deliberation**

Bob Cullen made a motion to take a 10-minute break. Michael Roberts seconded the motion. There was no discussion and the motion passed unanimously. A break was taken at 7:51 p.m. The meeting was called back to order at 8:02 p.m.

Bob Cullen made a motion to continue the public hearing until the next meeting (October 12, 2006 at 6:30 p.m.). The record will be kept open for further testimony at that time. There was no discussion and the motion passed, with Michael Roberts voting nay.

**8. CITIZEN INPUT ON NON-AGENDA ITEMS:**

Monique Streech, 1053 E. 14<sup>th</sup> Street- asked about allowing questions first in a public hearing. Diane Rinks said that the process and order of public hearings are set by state law, and unfortunately we cannot change it.

Chris Pagella, 446 E. 16<sup>th</sup> Street- said that he read some of the past Council meeting minutes and noticed mention of a small park in Lafayette Plantation that has not been kept up by the City and wondered if there has been any resolution to that. Diane Rinks said that she did speak to Public Works about this issue and we do have a maintenance worker in Public Works who tries to devote a lot of his time to the City's parks, so he has added this pocket park to his list.

Teresa O'Halloran, 954 E. 14<sup>th</sup> Street- said that she would like to see mention of any questions or issues brought up in a Council meeting, in the next meetings minutes so that people can see what resolution was brought to the issue. Diane Rinks said that it is difficult to mention every issue because many of the things that are brought up are administrative issues that are handled on a day to day basis. If they are major issues, then they are usually brought back before the Council.

**PRESENTATION FROM KYRA DONOVAN ABOUT SCHOOL BOND:**

Kyra Donovan- principal of Wascher Elementary School, provided the Council and audience with a copy of an information sheet about the upcoming school bond. In this proposed bond, Wascher Elementary will get 7 new classrooms, with additional kitchen and office space. The total bond proposal for the district is \$62 million. Discussion ensued.

**9. DEPARTMENTAL REPORTS:**

**1) City Administrator report:**

Diane Rinks said that the City Engineer is working to get all of the basic information together for the design of wells #2 and #5 in the Lafayette/Dayton wellfield, so that accurate cost estimates can be formulated, and a proposal for design services can be presented at a later date. Well #2 will be owned by the City of Lafayette and well #5 will be jointly owned with the City of Dayton. The Intergovernmental Agreement with Dayton is being amended to reflect the jointly owned well. It is a goal to have the wells available for the critical summer months next year. Bob Cullen asked how the water levels are doing now, and Diane Rinks said that they are doing fine right now.

Michael Roberts asked about the status of getting the paint spill cleaned up on Madison Street and Diane Rinks said that she has been unsuccessful in getting in contact with the insurance representative for the company responsible, but her next attempt will be to the manager of the company.

Michael Roberts asked about the possibility of getting a stop sign placed at the corner of Bridge and 14<sup>th</sup> Street. Diane Rinks said that it would not be feasible to place a stop sign on Bridge Street, as it would probably cause a bigger traffic problem.

**2) Accounts payable report:**

Michael Roberts asked about the payment to Boundtree Medical and Diane Rinks said that that is for medical supplies for the fire department.

**3) Public Works report:**

Art Bixman said that the potholes on 8<sup>th</sup> Street, between Washington and Bridge Streets, have reappeared again. Diane Rinks said that she will relay this to public works. Art Bixman also asked about the status of the sinkhole (broken abandoned sewer service lateral) at 16<sup>th</sup> and Bridge that occurred about 2 months ago, because it doesn't look like the paving has been done on it. Don Leard said that it has been paved and they (contractors from Haylen Meadows) did a good job on it.

**4) Fire Department report:**

There were no questions on this report.

**5) Sheriff report:**

Sergeant Tim Svenson said that the overall call volumes have increased in Lafayette since last year, but that is expected, especially with the increase in population.

**10. LEGISLATIVE ACTIONS:**

None.

**11. ACTION ITEMS:**

**1) Request for reimbursement- tree removal:**

Diane Rinks said that she has received a request from Loura Archer, 584 8<sup>th</sup> Street, regarding the City sharing in the cost to have a tree removed from the City right of way in front of her house. She stated that the trees root system was compromised when some line replacement was done by the developers of Morgan's Vineyard a few years ago. The tree had begun to lean and the homeowner was concerned about the tree falling on their house. Diane Rinks said that she spoke to the homeowner about this and told her that a decision couldn't be made as to the City's contribution until the next Council meeting. The total cost of having the tree removed was \$800. The homeowner decided to have the tree removed and is now asking for some reimbursement. Diane Rinks said that she would pursue recovering some of this cost with the developer, but the company that did the work is not the current owner of the subdivision and the chances of being successful now is very slim. Michael Roberts said that he would like to try to negotiate a 50/50 split of the cost of removing the tree with the homeowner. The rest of the Council agreed. Discussion ensued.

Michael Roberts made a motion to try to negotiate a 50/50 split of the cost of removing the tree at 584 8<sup>th</sup> Street, with the homeowners, Loura and Terry Archer. Art Bixman seconded the motion. There was no more discussion and the motion passed unanimously.

**12. DISCUSSION ITEMS:**

~~**1) Work Session- Door to Door Sales and Garage Sales- poss. Ordinance revisions:**~~

~~Deleted by Diane Rinks under 'Additions and Deletions'.~~

**1) Status of Wastewater Treatment Plant project:**

(Added by Diane Rinks under 'Additions and Deletions')

Diane Rinks said that she had a meeting with the engineers on this project (HBH Engineering), the contractors (Emery & Sons), and Roy Loftis (Wastewater Treatment Plant Operator) about three weeks ago to discuss the lack of progress on getting the new plant started. She has some serious concerns about the timelines that the City is faced with to get this project finished. The closeout date on the project (according to the funding agency) is December 31, 2006, and nothing has been started up in the new plant yet. There are still unfinished pieces of the project, kinks to be worked out of the new plant, and demolition of the old plant that is supposed to occur before that date. Emery & Sons is supposedly going to submit a request for a time extension of 5 months on this project. Diane Rinks said that she will not be recommending approval of this extension to the Council unless she sees some significant progress towards completing this project over the next few weeks.

After some discussion, Bob Cullen made a motion that Diane Rinks should pursue this situation in whatever way is necessary to ensure completion of this project in a timely manner. Michael Roberts seconded the motion. There was no more discussion and the motion passed unanimously.

**13. COMMITTEE REPORTS:**

None.

**14. MAYOR'S REPORT:**

None.

**15. REVIEW OF HANDOUT MATERIAL:**

Mayor Don Leard reviewed the complaints that were received, including one from Frank Palmer (58 S. Market St.) about the paving of Park Avenue. Diane Rinks said that Park Avenue is not a dedicated public street, and until such time that it is, it will not be paved.

**16. ADJOURNMENT:**

Art Bixman made a motion to adjourn. Lisa Heatherly seconded the motion. There was no discussion and the motion passed unanimously. The meeting was adjourned at 9:33 p.m.

**Minutes approved on this 12th day of October, 2006.**

**APPROVED:**

**ATTESTED:**

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Mayor Don Leard

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Diane Rinks, City Administrator