

Date: May 5, 2007

To: Concerned Citizens of Lafayette

From: Michael Roberts, Council President

Unfortunately, prior work and family responsibilities and commitments, combined with the short notice given, prevent the members of the Lafayette City Council from attending this meeting. I have compiled the following information that will hopefully help address the concerns raised by this group through both the list of grievances and the questions asked on the flyer distributed to advertise this Town Hall meeting that are not covered by any specific grievance.

In the document titled "Presented to the City Council of Lafayette, Oregon, Issued by Concerned Citizens, April 27, 2007, a group of citizens have raised certain grievances regarding the conduct of the Council and the City Administrator. **This memorandum is my personal response to those grievances, and is not to be taken as speaking on behalf of the entire council.**

Grievance: *Our current City Council does not hold the City Administrator accountable, or require her to provide appropriate details to the community regarding the operations of our City offices.*

Response: Generally, City Administrators in Oregon are not subjected to strict supervision by Mayors or Councils. Rather, such Administrators are delegated certain responsibilities and authority by charter and/or contract, and then the Administrator reports regularly to the Council on his/her progress in carrying out those responsibilities.

In Lafayette's case, that is how the system works. It is not the responsibility of the Mayor to supervise the Administrator, and he has no legal authority to do so. It is the Council's decision as to how much detailed reporting from the Administrator is necessary. The Council has determined that the current level of reporting is adequate to assure accountability.

Generally, the City Administrator has no duty to report to the "Community" as indicated in the grievance. That's the Council's job. We are always interested in suggestions regarding additional means of communication.

Grievance: *Our current City Council does not keep the citizens informed of major decisions and operations within our city such as major water system problems, financial losses and deficits, or project failures.*

Response: The City Council does make an effort, through periodic newsletters, water bills and website, to inform the public of City business. Citizens can also keep informed by attending Council meetings. The Council is always eager to entertain suggestions on how to improve citizen information processes. Until recently, demand for information regarding City projects and issues has been low, and the Council will make every effort to respond to the changing demand although I am not currently aware of any major water system problems, financial losses and deficits, or project failures.

It is true that the City faces some difficult issues, not the least of which are water and sewer system concerns. Both are being handled largely by consultants and contractors who are expected to achieve the desired results on time and within budget. These are public issues and our citizens are entitled to see all records pertaining to those issues and to attend the Council meetings at which those issues are regularly discussed.

Grievance: *Our current City Council does not maintain all areas of notification responsibly to inform citizens of meeting date changes or cancellations (e.g., City Web site postings do not match when actual meeting dates occur).*

Response: Public notice of Council meetings is published and disseminated according to Oregon law, and has been approved by the City Attorney. Nevertheless, if there are other additional, reasonable means of notice which would be helpful to our citizens, the Council would be pleased to add them to our current process.

The grievance includes a complaint of inaccurate meeting notice on our website. Though we strive to keep the website as current as possible, oversights occasionally occur. We will endeavor to assure accuracy in the future.

Grievance: *Our current City Council does not use good accounting practices or due diligence to monitor spending practices or personal expenditures of the City Administrator.*

Response: The Council does indeed monitor expenditures by the City Administrator. Such expenditures are reported to the Council on a regular basis. The Council has delegated expenditure authority to the Administrator up to \$15,000, which is a common practice in Oregon cities. The Council does not intend to supervise or approve each such expense, but does regularly monitor such expenses to assure compliance with the budget. In addition, the Mayor countersigns all checks pursuant to the Charter. The Council and the City's independent auditor believe that our current level of expenditure supervision is exemplary. There is no evidence that any expenditure by the Administrator has ever been improper.

Grievance: *Our current City Council does not uphold our city Mission Statement and has publicly violated the following declarations that have been established:*

- promoting citizens activism and involvement of "as many people as possible" in decision making and in the operation of the City.*
- keeping citizens informed as to what the city is doing and why.*
- treating citizens and the public in a courteous and friendly manner*
- being respectful of and listening to the views of everyone in the community.*
- recognizing that every citizen has an equal right to the decision making process.*

Response: The City's mission statement is very broad and applies to a wide range of activities. The statement is not law, but rather a listing of our guiding principles. It is very easy to argue, at any given point in time, that some portion of the mission statement is not being applied. Nonetheless, the Council makes every effort to apply the statement to all city activities.

Grievance: *Our current City Council does not allow open communication with citizens regarding matters of public record.*

Response: If this comment refers to Council communication with citizens at Council meetings, it's true that debate between citizens and councilors at such meetings is not normally allowed. Council meetings are not debates. Rather, they are meetings of the Council to conduct the business of the City. They are designed to be orderly, and the public is expected to comply with rules governing the meetings. The Council always seeks citizen input, but not debate.

If this comment refers to Council communications with citizens outside of Council meetings, the comment is simply untrue. There is no Council policy or practice which precludes or restricts Councilors from communicating with their constituents.

Citizen involvement is of utmost importance to the Council, and the Council has always devoted a significant portion of each Council meeting to citizen participation. Of course, the Council has other business to consider at its meetings, so citizen participation must be regulated to the extent necessary to allow the Council to get through its agenda in a reasonable period of time. But, citizen involvement at Council meetings is certainly welcome as provided for in the agenda.

Grievance: *Our current City Council does not work for the best interest of our community, is not accountable to the community, and does not behave as public servants to the community in which they serve.*

Response: The Council is elected by the people of the City, and all Councilors believe that they are doing their best to promote and protect the best interest of the community. The Council is accountable to the community at the ballot box. The Councilors' behavior at Council meetings has been exemplary considering the recent criticism and disruption from the prior Mayor and a few of his supporters. The prior Mayor and his supporters apparently believed that the Mayor was in charge of the Council and the City, and that the Council and Administrator should support and comply with the Mayor's wishes. That is not now, nor has it ever been, how the City operates. It is true that the Mayor and Council should seek to be cooperative with each other, but when the Council disapproves of the Mayor's conduct and the Mayor is not willing to be cooperative, then adversarial relations will occur. The Council is working hard to assure that the spirit of cooperation, which has prevailed in the past, is returned.

Grievance: *Our current City Council does not uphold the requirements of their positions according to the Charter set for the City of Lafayette by allowing violation of Chapter V, Section 20.*

Response: Charter Chapter V, Section 20, relates to the duties and responsibilities of the City Administrator. The grievance does not state any specific instances of violation of that Charter section. The Council and City Attorney have reviewed that section of the Charter and find no instance of non-compliance, with one exception. The Charter requires that the City Administrator be bonded, and this has not been done until recently. The reason for that is that the City's insurance policy expressly protects the City for losses due to employee theft or embezzlement. Thus, a bond would be largely redundant. Nevertheless, the City Administrator has obtained such a bond.

Grievance: *The City Administrator spends money without accountability, withholds public information, has no bond, is unprepared at meetings, improperly stores public records, and is not cooperative with the prior mayor.*

Response: Most of these issues will be addressed in the Council's upcoming annual review of the Administrator's performance. Specifically, there is no evidence of improper spending or lack of fiscal accountability as demonstrated by the City's audit. The Administrator is obligated by statute to disclose public records and financial information, and to the knowledge of the council, has done so. The Administrator has obtained a bond. The Council believes that the Administrator has regularly been well prepared for Council meetings. The Council will review the records storage issue, which has been a difficult problem due to lack of storage area at City Hall.

Finally, cooperation with the past Mayor is a difficult issue to address. Generally, cooperation between the Mayor and Administrator must be a two-way street. The Administrator works for the Council, not the Mayor. If a Mayor assumes more authority over the Administrator than the Charter allows, the Administrator is acting appropriately to resist. Otherwise, the Administrator should be cooperative with all members of the Council, including the Mayor.

The following questions were asked on the flyer and are ones that were not addressed in the preceding responses. I will attempt to answer them here.

- *Who is accountable for the mistakes made on our new sewage system and how much more is it going to cost us? How much higher WILL our water bills go?*

The Council has recently taken proactive, prudent steps to ensure the completion of the new wastewater treatment plant and to protect the city's position against any unwarranted claims. Negotiations are currently taking place between the city's representatives, the project engineers and the contractor to determine the validity of any future change order requests that may be presented. There is no way to determine at this time what, if any, additions to the existing contract might be required.

In 2000, the City Council passed Resolution Nos. 2000-03 and 2000-29, amending the sewer and water rates, which included an annual escalator clause to reflect ongoing increases in the cost of operating the water system. This automatic annual increase is \$3 per month combined, which currently approximates a CPI rate increase. There has been no recent discussion of any increases in either the sewer or water rates over and above this escalator.

- *Why are citizen's sensitive personal records along with other city documents, allowed to be stored in a moldy, unkempt building without a security system in place?*

There are no sensitive personal records stored anywhere other than city hall. The records that are currently stored off-site are mostly land use and building permit records. There is no indication of any mold in the area they are stored. The records that were stored some years ago in the basement of the community center that were subjected to seepage into that area, which could be saved, were dealt with safely and adequately, as instructed by the city's risk management consultant and an industrial hygiene consultant. Some documents could not be saved and were properly disposed of. The plan is to convert the old sewer lab building blower room into a storage area once the new plant is fully operational.

- *Why is our City Council holding private meetings regarding our water issues?*

I am not aware of any private meetings regarding water issues ever taking place. If someone would like to address this issue with a specific instance, please let me know.

- *Why has the City Council requested our newly elected mayor to resign?*

This was never the case, the council never asked the mayor to resign. Myself and one other councilor went to Mr. Flood to inform him that we were considering bringing up a vote of no confidence. Upon finishing our talk he asked me directly did I myself think he should resign, and due to the conversation we just had with him, and the things brought up during that talk, I said yes, I myself, not the council, thought he should resign.

What then transpired at the City Council meeting on Thursday, April 12, 2007 was an unfortunate situation for the City of Lafayette. Based on a lack of understanding of the roles and responsibilities of the city's elected and appointed officials, the citizens in attendance were understandably upset by the resignation of Darrell Flood as Mayor. I will attempt to clarify what some of the issues were that led us to that point.

Although there was concern that items brought up in executive session may have been discussed improperly, talking with the News-Register about problems the city is having with its new sewage treatment plant was not the most disconcerting issue to some members of the Council. Ongoing disregard for the most basic tenet of local government, abiding by decisions adopted by majority vote of the council, was a continuing problem evidenced by Mr. Flood's unwillingness to accept decisions that differed from his own. Efforts were made to circumvent some decisions and opposition to those decisions was solicited.

Also, it was evident by audience comments and reactions that misinformation regarding the City Administrator's role in the City Government was also disseminated to the public. Our Administrator, by City Charter, is the administrative head of the city government and is responsible for the day-to-day operations of the city.

It was hoped that the training session conducted by the League of Oregon Cities to address these issues would allow the Council and Mayor to get back on track, but it was apparent that it hadn't, resulting in two members of the council advising Mr. Flood that they would vote no confidence in Mr. Flood due to the specific violations in Council rules.

There were also two other issues that have been raised that were not included in the list of grievances but I would like to address them at this time. One was that the City Council does not support or cooperate with the Mayor elected by the people. The Council is not obligated to support the Mayor, and when the Council believes that the Mayor is acting inappropriately or without authority, it is the Council's responsibility to prevent such conduct. Under the Lafayette Charter, all power belongs to the Council, not the Mayor. Thus, it is really the Mayor who is obligated to support and cooperate with the Council, not the other way around.

The second concern raised was that the Council does not follow Roberts Rules of Order during public meetings. The Council has not adopted Roberts Rules of Order, and those rules do not apply to Council meetings. Rather, the Council has adopted its own procedural rules, with

which it complies on a regular basis. Public input is encouraged during the public participation portion of the agenda, and during designated public hearings, but is generally discouraged during other portions of the agenda in order to allow the Council to complete its work, including necessary discussion among councilors, in a timely and business-like manner.

I look forward to working with the rest of the Council, City Administrator and staff in the months ahead to regain the positive and productive momentum of the past several years. Our goal is to continue working on securing the needs of the city and its citizens, which requires that we all move on from this episode to the exciting and important work ahead.

I am including my contact information below. Please feel free to contact me with any specific issues that you do not feel have been addressed.

Michael J. Roberts
Lafayette City Council President
T.E.A. (Field Service Engineer) – INTEL
Michaeljri@yahoo.com -email addr.

503-864-8004 home
503-202-1410 pager
503-560-2843 cell