

City of Lafayette
City Council Meeting Minutes
May 19, 2010
6:30 PM

- 1. CALL TO ORDER:** Council President Chris Pagella called the meeting to order at City Hall at 6:30 p.m.
- 2. FLAG SALUTE:** Council President Chris Pagella led the flag salute.
- 3. ROLL CALL:** Trena McManus, Pro tem City Administrator, called the roll.
Present:, Chris Pagella, Nicholas Harris (arrived at 7:50 p.m.), Leah Harper, Dean Rhodes, Michael Roberts, and Bob Cullen.
Absent: Mayor Chris Heisler (excused).
City Staff Present: Trena McManus – Pro tem City Administrator, Jim Anderson- Public Works Foreman, and Cindy Phillips (City Attorney- Jordan Schrader).
Others: Marv Bennett, Kerri Bennett, Mary Heisler, Marie Sproul, Nicole Montesano- News Register, Angela Flood, Darrell Flood, Debbie Schley, Sergeant Steve Warden- Yamhill County Sheriff's Office, Betty Roberts, Patricia Rhodes, Don Leard, Steve Lebwohl- Wildwood Playgrounds, and approximately 4 others.
- 4. ADDITIONS AND DELETIONS:**
Council President Chris Pagella said that he would like to move the executive session to right after Citizen Input. The Council agreed.
Michael Roberts said he would like to add an agenda item regarding a public records request. The Council agreed. This was added as agenda item 8(9).
Trena McManus asked the Council to amend agenda item 8(5) to include Attorney attendance at meetings. The Council agreed. She also asked to add an agenda item to designate a signer for the severance agreement with Justin Boone. The Council agreed and this was added as agenda item 7(3).
- 5. CITIZEN INPUT ON NON-AGENDA ITEMS:**
Betty Roberts, 160 W. 13th St.- said that the volunteer Fire Department will be holding a rummage sale on June 4 (on the empty lot behind City Hall) and asked if a deputy could drive by if they are in the area on Friday evening, since a lot of items will be placed out the night before the sale.
Don Leard, 220 Madison St.- said that he has some concerns about the Perkins Park project. Some of his concerns were: a title search should have been done on the property to see if there are any deed restrictions, he said that federal grant money paid for the pavilion and research should have been done to see if there were restrictions on tearing it down, the City should have done a site development review, the old trees in the park have not been protected, and a survey should have been done because the retaining wall was built in the right of way (ROW).
- 9. EXECUTIVE SESSION AS ALLOWED BY ORS 192.660 (2)(h) re: to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.**
Trena McManus said that the Lafayette City Council will now meet in executive session for the purpose of consulting with legal counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed, consistent with ORS 192.660(2)(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 6:44 p.m.
The Council returned to open session at 7:01 p.m.
- 6. DEPARTMENTAL REPORTS:**
 - 1) Sheriff's report:**
Sergeant Steve Warden said that he is moving to another position within the Sheriff's Office, so Sergeant Brandon Bowdle will be the contact for Lafayette.
 - 2) City Administrator report:**
None.
 - 3) Accounts payable report:**

Leah Harper asked about the payment to Integra Telecom, and Trena McManus said that is the monthly payment for phone and internet service at City Hall and the Sewer Treatment Plant.

Leah Harper asked about the attorney bill and the charges that occurred on April 8, 2010 (strategize with Cindy Phillips regarding possible City Council action to dismiss of City Administrator and proper procedure to avoid liability). City Attorney Cindy Phillips said that Justin Boone contacted her about his concerns of being terminated. So, she had a discussion with another attorney in the office (Ron Guerra) about the possible situation she had been alerted to.

Angela Flood, 287 Canyon View Drive- asked about the attorney charges on March 25 and March 31 regarding her website, and Trena McManus said that this was not requested by the City, and those charges have been reversed.

4) Public Works report:

Leah Harper asked Jim Anderson if he was able to get the reports from Dayton yet on water production/distribution. Jim Anderson said that he has gotten Lafayette's numbers, but he hasn't gotten Dayton's numbers yet. Chris Pagella asked Jim Anderson to email those numbers to the Council and Jim Anderson said that he would take care of it. Bob Cullen asked about the status on the bluebird line relocation, and Jim Anderson said that the City has missed the construction window on this project this year because the easement has not been finalized. Bob Cullen said that it may be time to get the City Attorney involved on this so that this issue can be resolved. The ASR (Aquifer Storage and Recovery) project has been approved by the state and is scheduled to be online by November 2010. There was some discussion about grant opportunities, but because of tight timelines and the need for project design, the City won't be able to apply for the (ODOT's Bicycle/Pedestrian program) grant this year.

5) Fire Department report:

There were no questions on this report.

7. ACTION ITEMS:

1) Approve Council newsletter for distribution:

Dean Rhodes said that he submitted a double sided version of the newsletter this month, with one side presented in Spanish. He said that he thought it would be a good idea to start sending it out in English and Spanish.

Leah Harper suggested adding a sentence regarding the City Administrator's resignation. The Council agreed. Angela Flood, 287 Canyon View Drive- asked the Council to send the newsletter out on white paper because it makes it difficult to read for people who are visually impaired and have to use readers. The consensus of the Council was to send the newsletter out on white paper from now on.

The Council agreed to distribute the newsletter as amended.

2) Approve playground equipment contract:

Trena McManus reviewed the playground structures that were submitted by Northwest Recreation (\$58,949), Precision Recreation (\$62,900), Northwest Playground Equipment (\$56,017.90), and ArchiteCreation (\$57,170).

Comments were also solicited from parents and kids at Wascher Elementary. The comments reflected preference to the design submitted by Northwest Recreation of Oregon. This design included closed tube slides, and staff expressed their concern with this type of design from a safety and vandalism standpoint.

Steve Lebwohl, Precision Recreation- said that his design presented more activities than any of the other designs. He said that he moved the layout of the equipment around to fit within the 50'x70' area.

Discussion ensued.

Betty Roberts, 160 W. 13th Street- asked about heat, mold, and safety concerns of the structure. Steve Lebwohl said that their equipment meets all of the required standards set for this type of equipment.

Marie Sproul, 1282 3rd Street #1- said that she has a playground at her mobile home park, and has never had any accidents or injuries. She suggested using bright colors for the playground equipment.

Bob Cullen made a motion to authorize the City Administrator to enter into a contract with Precision Recreation Contractors, for the purchase and installation of playground equipment at Joel Perkins Park, in an amount not to exceed \$62,900. Dean Rhodes seconded the motion. Discussion- Michael Roberts said that he didn't think it would be prudent to spend the money on playground equipment until the concerns that were brought up by Don Leard are addressed. Trena McManus said that those concerns would not affect the purchase of playground equipment. There was no more discussion and the motion passed unanimously.

Bob Cullen made a motion to authorize the City Administrator to enter into a contract with Precision Recreation Contractors, for the purchase and installation of playground equipment at Tract F Park, in an amount not to exceed \$16,450. Dean Rhodes seconded the motion. There was no more discussion and the motion passed

unanimously.

A 5-minute break was taken at 8:02 pm. The meeting was called back to order at 8:08 pm.

3) Designate signer for severance agreement with Justin Boone:

(Added by Trena McManus under 'Additions and Deletions'.)

Chris Pagella said that the Council needs to designate someone to sign the severance agreement with Justin Boone. Cindy Phillips said that a question has been asked about when Justin's last day of employment (paid administrative leave) will be, and the proposed date is Friday, May 21, 2010 (at 5 p.m.).

Dean Rhodes made a motion to designate Chris Pagella as the signer for the severance agreement with Justin Boone, with the final day of employment on May 21, 2010. Michael Roberts seconded the motion. There was no discussion and the motion passed unanimously.

8. DISCUSSION ITEMS:

1) Update on needed crosswalk striping:

Jim Anderson said that he has researched the crosswalks that need to be repainted and provided a list of those intersections to the Council. He also said that the area around the community mail boxes should be painted yellow (City Ordinance states that there is no parking within 30 feet of a community mailbox), and the red curbs (near fire hydrants) need to be redone.

Dean Rhodes suggested adding a crosswalk at 12/Bridge St. to provide a safe crossing into Veterans Park. The Council asked Jim Anderson to get a price to have all of this work done and bring it back to the Council at the next meeting.

2) Updates to water master plan and groundwater level data:

Nicholas Harris said that he requested that this item be placed on the agenda because he feels that it is important to get an update on the water levels/sources in the watershed. This was done in 2006 (for \$2,400), but it needs to be updated. This will be important information to have in order to make decisions about the City's water system in the future. Nicholas Harris made a motion to authorize the City Administrator to enter into a contract with GSI (Groundwater Solutions, Inc.) to update the City of Lafayette spring and well evaluation, not to exceed \$2,500. Michael Roberts seconded the motion. There was no discussion and the motion passed unanimously.

3) Review policy for Comm. Center, reader board, and water bill content:

The Council asked staff to draft a policy on these issues and present it to the Council at the next meeting. Dean Rhodes suggested that the Council submit any recommended changes to staff.

4) Review policy for PTO (Paid Time Off) use:

Any policy change regarding PTO would need to be incorporated into the personnel handbook, and adopted by resolution. Trena McManus suggested that this language be drafted by the City Attorney since it will be put into the employee handbook and it directly affects staff.

Dean Rhodes made a motion to table agenda item 8 (3) and (4) until the next meeting, with the staff drafting policies for agenda item 8(3), and the City Attorney drafting an amendment to the employee handbook regarding PTO use (agenda item 8(4)). Bob Cullen seconded the motion. There was no discussion and the motion passed unanimously.

5) Contacting Attorney/Attorney attendance at meetings:

Michael Roberts said that he requested that this item be placed on the agenda because he has noticed that the Mayor has had several contacts with the City Attorney. There is no ability for any other Council members to contact the attorney. Michael Roberts said that he feels that either all Council members should be allowed to contact the attorney, or no council members should be allowed to contact the attorney without a majority Council vote. Leah Harper asked why Michael Roberts wants to remove this ability from the Mayor. Michael Roberts said that he doesn't want to remove anything from the Mayor, but he wants to give the same ability to every Council member. Bob Cullen suggested tabling this agenda item until there is a full Council.

Discussion ensued.

Michael Roberts made a motion to table this agenda item until the next meeting (when there is a full Council).

Dean Rhodes seconded the motion. There was no discussion and the motion passed unanimously.

Bob Cullen asked staff to contact surrounding cities to find out their policies on contacting the City Attorney.

Trena McManus said that the City Attorney sent out a letter in April 2009 offering to attend Council meetings at a

discounted rate of \$250 per meeting plus mileage. They said that they are still willing to extend that same offer. Michael Roberts made a motion enter into an agreement with the City Attorney for attendance at Council meetings for \$250 per meeting, plus mileage costs. Bob Cullen seconded the motion. Discussion- Bob Cullen asked the Council to present any questions (that require research) about the agenda to the staff prior to the meeting so that staff or the attorney have time to prepare an answer.

Darrell Flood, 287 Canyon View Drive- said that he doesn't agree with paying mileage for someone to drive from Portland.

Don Leard, 220 Madison St.- asked if the attorney will be at every meeting, and Cindy Phillips said that they will attend every meeting they are asked to attend.

There was no more discussion and the motion passed unanimously.

City Attorney Cindy Phillips said that she will prepare an amended legal services agreement for the Council's review.

6) Emails, letters, statements against other councilors:

Michael Roberts said that he asked for this item to be placed on the agenda but he would like to table the discussion until all Council members are in attendance. Nicholas Harris made a motion to table this agenda item until the next meeting. Bob Cullen seconded the motion. There was no discussion and the motion passed unanimously.

7) Discussion about City Administrator vacancy:

Trena McManus said that she would like to get some direction from the Council on filling the position of City Administrator. She recommended hiring an interim City Administrator for the next year (after general election and budget process).

Bob Cullen said that he would be interested in trying to contact Dick Klein and see if he is still interested in applying for the position. After some discussion, the Council asked staff to come up with a list of possible candidates, gather resumes, and present them to the Council at the next meeting.

Trena McManus asked the Council to consider increasing her wage to that of the City Administrator while she is filling in as pro tem City Administrator. Leah Harper asked if there is money in the budget for this and Trena McManus said that there is money in the budget to cover this but the Council will have a budget transfer to consider at the next meeting to cover Justin Boone's severance. Michael Roberts made a motion to increase Trena McManus' wage to the City Administrator wage while she is filling in as pro tem City Administrator. Bob Cullen seconded the motion. Discussion- Leah Harper said that she just wants to verify where the money is coming from. Michael Roberts suggested making the wage increase effective as of Monday, May 17, 2010. There was no more discussion and the motion passed unanimously.

8) Perkins Park project update:

Trena McManus said that a number of issues have come up regarding the Perkins Park project. First of all, it is imperative that this project be completed and paid for by June 30, 2010. There was no money budgeted to pay for capital improvements in the Parks SDC Fund in the FY10-11. The retaining wall that was constructed exceeded the 4' maximum height limit. C&D Landscape was asked to lower the retaining wall to meet the 4' requirement. A complaint was received stating that a portion of the retaining wall was constructed in the right-of-way. Trena McManus said that the only way to know for sure is to have a full survey done on the property. The estimated cost to have a survey done is \$2,000. The consensus of the Council was to have a survey done on the Perkins Park property. The issue of ADA (Americans with Disabilities Act) access to the park was never addressed or considered in the design. In order to meet this requirement, the sidewalk will have to be re-designed and will require additional concrete. There will be a change order resulting from this change that will be presented to the Council at the next meeting. The original placement of the pavilion did not meet setbacks, so C&D was asked to move the location of the pavilion to meet setbacks. A building permit was not issued on the pavilion (the City's responsibility), so the paperwork was submitted and the permit should be issued within the next couple days so that construction on the pavilion can begin. A question has been raised about whether a site development review is required on this project since the pavilion was torn down and a new one is being built. Staff's interpretation of the LZDO (Lafayette Zoning and Development Ordinance) Section 3.105.03 (B)(3) is that a site development review would not be required in this situation.

Nicholas Harris made a motion to have the City Attorney review the LZDO and provide an opinion on whether a site development review is required. Michael Roberts seconded the motion. There was no discussion and the motion passed unanimously.

9) Public record request:

(Added by Michael Roberts under 'Additions and Deletions'.)

Michael Roberts said that he asked for this to be placed on the agenda, because he has heard that public records were scanned by Leah Harper and another individual, and the public records policy was not followed. Leah Harper said that Justin Boone told another citizen that public records could not be scanned without a Council member present. She was asked if she would be willing to be present when the documents were scanned and she agreed. There was no mention of a public records request by Justin Boone or anyone else. Michael Roberts asked Leah Harper what documents were scanned and she said she had no idea. Michael Roberts said that he is concerned because scanning equipment was brought into the City Administrator's office, and the scanning was not supervised the entire time by City staff.

City Attorney Cindy Phillips recommended that all public records request be in writing, and a staff person should be present at all times during record inspection.

Leah Harper said that she had requested information from Trena McManus and she said it was outside of her scope, and when Leah Harper asked the City Administrator, he directed her to a specific drawer and said she was welcome to come in and go through it. Leah Harper said that no personal information was taken and confidential information was not taken. When asked what specific documents were taken, Leah Harper said that she has not looked at all of the documents (since the scanning) to see exactly what was taken.

Trena McManus said that there is a public records policy in place, and that policy was not followed in this situation. Leah Harper said that she acted based on what she was told by the City Administrator.

Darrell Flood, 287 Canyon View Drive- said that public records law says that a citizen may fill out a public records request form and come in and review documents. He said that if he is being charged, he hopes that everyone is being charged.

Debbie Schley, 1512 N. Jefferson St.- said that she would like to request that all of the information be posted on the City website so that she can see what was taken. She also asked who came to City Hall with Leah Harper to scan the documents.

Leah Harper said that she came in with Paul Knobel.

Paul Knobel, no address given- said that the information is not on the internet, and he can make the information available.

Discussion ensued.

Leah Harper or Paul Knobel will provide the documents that were scanned to the City so that they can be posted on the City website.

10. COMMITTEE REPORTS:

None.

11. MAYOR'S REPORT:

None.

12. REVIEW OF HANDOUT MATERIAL:

None.

13. ADJOURNMENT:

Bob Cullen made a motion to adjourn. Nicholas Harris seconded the motion. There was no discussion and the motion passed unanimously. The meeting was adjourned at 9:44 p.m.

Minutes approved on this 10th day of June, 2010.

APPROVED:

ATTESTED:

Mayor Chris Heisler

Trena McManus, pro tem City Administrator