

City of Lafayette
City Council Meeting Minutes
Thursday September 12, 2024, at 6:30 p.m.

1. **CALL TO ORDER:** Mayor Malcomson called the meeting to order at 6:30 p.m.

2. **FLAG SALUTE:** Mayor Malcomson led the flag salute.

3. **ROLL CALL:** Kennedee Richardson called the Roll:

Present: Mayor Hilary Malcomson, Lee Gilgan, Joseph Carswell, Kayla Paulsen, Jessica Kitt, Russell Burrows

City Staff Present: Branden Dross, City Administrator; Kennedee Richardson, City Recorder; Chad Snyder Public Works Director; Tim Jech, Fire Chief; David Robinson, City Attorney

Others: Ron Kerr, Kitt Johnston

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

No citizen input on non-agenda items.

5. **ADDITIONS TO OR DELETIONS FROM AGENDA:**

No additions or deletions.

6. **APPROVAL OF MINUTES:**

a. *August 27, 2024, City Council Meeting Minutes*

Chief Jech adds clarification to comments made during the Fire Department report. Samantha is an employee of the fire department, not a volunteer and the brush truck did not make \$42,000 it has made \$28,838.50. As mentioned the previous month, the brush truck was not deployed for the full amount of time. Mayor Malcomson clarifies that this information cannot be changed in the minutes and is just for clarification.

Mayor Malcomson asks that it be added to page four letter C that after the discussion she returned to the dais and relieved Council President Paulsen of her duties.

Councilor Gilgan noted two clerical errors. In the sentence "Councilor Gilgan asks if it is comment for a municipality to carry debt that is over 50 % of the budget,..." on page 3 "comment" to be changed to "common" and halfway through discussion item B "a" to "are" in the sentence "Councilor Gilgan adds that if it is a contract specific questions those a better routed to City Administrator Dross who can speak with the City Attorney Robinson." Councilor Gilgan notes the last word on page three changing the way the City Attorney is referenced from "they" to "he." City Recorder Richardson states that she had been directed to use gender-neutral pronouns in the minutes and asks the Council how they would prefer she refer to individuals in the meeting minutes moving forward. Council

President Paulsen states that she would prefer “he or she” adding that “they” can sometimes be confusing depending on the sentence referencing the sentence Councilor Gilgan was speaking about as an example of that. City Administrator Dross asks City Attorney Robinson if there is any liability with using “he or she.” City Attorney Robinson states that there is no ruling that he understands or knows of that requires the city to preemptively use pronouns. The liability is when someone asks, and they continue to be misgendered.

Councilor Carswell motions to approve the August 27, 2024, meeting minutes with the noted changes, Council President Paulsen seconds. Motion passed unanimously.

7. DISCUSSION ITEMS:

a. Political Candidate Signs – Lafayette Zoning and Development Ordinance Section 2.206.06

City Administrator Dross explains that Council President Paulsen had asked his about the sign code and requested it be on the agenda. City Administrator Dross shares that he has been working with the City Attorney David Robinson and the City Planner Jim Jacks along with Council President Paulsen to review the code about political speech signs and the enforcement of them. City Attorney Robinson explains the Lafayette Zoning and Development Ordinance Section 2.206.06 (L) and states that there is nothing within that unconstitutional in the way the ordinance is, stating it is a reasonable time, place, and manner control over signage, but adds that the issue is with enforcement of it due to code 2.206.08(A) regulating the number of signs and square footage of those signs. The City Attorney has suggested adding verbiage to 2.206.06(L) to allow additional signs than what is allowed all year under 2.206.08(A) and when it comes to enforcement the Code Officer can only regulate the number of signs on a person’s property. City Administrator Dross shares that a complaint had come in regarding a political sign and the city enforced that sign per 2.206.06(L) as it had been doing. That ignited additional discussions regarding differentiating a statement sign and a political sign. Councilor Gilgan asks City Attorney Robinson about the time, place, and manner test. The City Attorney agrees it is different from regulating speech, it is narrowly tailored to a limited government interest which in this case is aesthetics. The city does not want a proliferation of signs while the city is not regulating what is said on those signs, the city is regulating the number of signs and the dimensions of those signs. Councilor Gilgan clarified that he meant to state that the policies must be content-neutral. The City Attorney agrees and adds that his initial advice to City Planner Jacks and City Administrator Dross was to remove “L” in its entirety. Council President Paulsen states that as the code is written now it is focused on political signs and in their opinion, it is limiting content, she agrees that it is reasonable to limit the size and number of signs.

Mayor Malcomson clarifies that if the Council were to remove subsection “L” it would just be removing the allowance of additional signage. City Attorney Robinson states that yes and he would endorse removing subsection “L,” it would make property owners choose which signs they want to put up if it fits the size and number requirements, it also wouldn’t draw attention to politics. Council President adds that the way the code reads it implies that except for in a specific

window of time a resident cannot have political signs. Councilor Burrows brings up subsection "J" which puts a time limit on temporary signs, stating that someone could have an abundance of political signs but only for 90 days. Council President Paulsen follows up Councilor Burrows' statement by sharing that the dispute now would be what signs are being considered temporary signs. City Administrator Dross shared that in 2013 and noted that The Planning Commission Chair at that time and still currently Ron Kerr is present, there was a lot of discussion in the minutes regarding political signs. Mayor Malcomson asks about temporary signs for business, asking if a permanent sign needs to be approved. City Attorney Robinson states that the difference is if it is on a structure that requires planning and development review. Mayor Malcomson suggests that if the Council is removing content from the codes, then they should also take out subsection "K." City Attorney Robinson agrees and adds that many holidays are not federally recognized, therefore "K" is not enforceable, he then provides an example of a Christmas store that is open all year and displaying Christmas signs. Councilor Burrows asks more about the definition of temporary signs and banners, noting that banners and flags, affixed to a building, are becoming popular.

City Administrator Dross clarified his understanding that this should go to the Planning Commission, City Attorney Robinson suggested sending it to the Planning Commission with the model sign code from the League of Oregon Cities. Councilor Carswell states that if your property is not part of a Homeowners Association (HOA) homeowners should be able to put as many signs up as they choose, Councilor Kitt states her agreement with Councilor Carswell. The City Attorney adds that local government is allowed to put in regulations for aesthetics, health, and public safety. Councilor Gilgan states that a lot of the discussion is being pulled into the First Amendment and reminds the Council that the First Amendment is subject to time, place, and manner restrictions. Ron Kerr, Planning Commission Chair addresses the Council about the intention of the Planning Commission at the time the sign code was drafted. Kerr shares that subsection "L" was to allow additional signs for the political season to give the ability to extra speech, not to regulate the content. Council President Paulsen states that the problem currently is that political signs are only being allowed during the window of time in subsection "L," Kerr agrees that that is not how it should be interpreted. Mayor Malcomson asks Kerr if the sign code also relates to businesses, and Kerr confirms that it is all-encompassing. City Attorney Robinson shares that in his experience enforcing signs in a commercial district is virtually impossible and suggests that the city focuses on residential signage. City Attorney Robinson reiterates that he thinks it best to not add anything and keep it to a uniform number of signs and square footage.

Mayor Malcomson asks City Attorney Robinson what he would advise the city to do while revising the sign code. City Attorney Robinson says do not enforce because there is a square footage dissonance between 2.206.06 and 2.206.08, send it to the Planning Commission, simplify the code, and focus on residential and aesthetics. Councilor Gilgan shares that he does agree with Councilor Carswell that if you own your property, you should be able to do what you want with it and

make sure everyone understands that what we have now is constitutional. Ron Kerr asks the City Attorney if there is additional square footage or the number of signs during certain periods, City Attorney answers yes that can be done. Council President Paulsen shares she agrees with City Attorney Robinson to get rid of content and simplify. Councilor Burrows states that if the city tried to increase signage during the holidays it would miss a lot of them. Councilor Burrows asks about blow-up decorations. City Attorney Robinson answers that those are rare and often prohibited for safety reasons. Councilor Gilgan clarifies that while the council continues to mention getting rid of content that the code currently does not regulate content, Council President Paulsen disagrees, Councilor Gilgan states this is talking about purposes whether it be holidays or political season adding whether it is a pro-republican sign or a pro democrat sign it is treated the same under the current code. City Attorney Robinson agrees with Councilor Gilgan. Mayor Malcomson and City Administrator Dross clarify what the directive to the Planning Commission is, which is to review the entire sign code and simplify it. The City Administrator confirms that the directive from the City Council with the recommendation of the City Attorney is to not enforce, City Attorney Robinson clarifies yes, but the city can enforce 2.206.08.

b. Recology Follow-up

No member from Recology is present, no follow-up discussion.

8. ACTION ITEMS:

a. Holiday Lights Contest Prize

Mayor Malcomson is requesting approval to use the \$500 that Portland General Electric (PGE) donated for holiday light contest prizes to pay a set amount of the winner's water bills. Councilor Burrows asks if someone who won the contest could miss getting a prize if they do not pay their water bill using rentals where the owner pays the water bill and not the renter. Councilor Gilgan states that while he does not know everyone's rental agreements, he thinks it is more common that renters pay the utilities, additional discussion ensures discussing the likelihood of a renter not paying their water bill and the likelihood of a renter winning a prize that does not benefit them. Councilor Carswell states that he is in favor of the Mayor Malcomson prize idea. Councilor Gilgan states that with the city already having the donated money, using it for utility bills makes the most sense, adding that in the current situation, he would have rather not taken money from PGE. Council President Paulsen says that the Council should go with this prize idea and if an issue comes up the prize winner can speak with City Administrator Dross to resolve it. Councilor Carswell moved to approve the water bill credit options presented for the 2024 Holiday Home Decorating contest, Councilor Kitt seconds. Motion passed unanimously.

9. DEPARTMENT REPORTS:

The City Administrator Dross shares that the city has been notified that the City of Dayton is going to have to put its residents under a water restriction. This month the City of Lafayette has only used 8% of the shared water system, The city is allotted 50% and has had concerns with having to use more water from McMinnville Water and Light. The

city has asked for a two-month credit for this month and last month because of only using 8% out of the allotted 50% of water. The money saved will go to paying for the extra water from McMinnville Water and Light. The City Administration states that because it will likely be a dry October the city would address getting additional credits.

City Administrator Dross shares that there has been an increase in graffiti at Perkins Park and that it has led to charges being brought against juveniles, and because of this, the city is looking at getting additional cameras at Perkins Park. The City Administrator also shares that the city is looking into equipping the Code Enforcement Officer with a vehicle camera and a body-worn camera, this is for the code enforcement officer's safety and so that if a concern arises the City Administrator can more accurately address the issue. City staff is currently working with City County Insurance Services (CIS) to go over the policy and ensure there are no liability issues.

Councilor Burrows notes that in the Public Works report it appears a lot of equipment is being ordered. Public Works Director Snyder states that yes, new equipment is being installed on Monday. City Administrator Dross adds that per his weekly report, the city has yet to find a new Public Works Director, so the city will be contacting current Director Chad Snyder and his consulting partners to oversee the system and sign off. Councilor Carswell asks who stated it would not be a wet October, Public Works Director Snyder says he did and adds that it does not mean it will not rain but will likely not rain enough to fill the water wells. The Public Works Director adds that he is unsure if The City of Dayton is going on water restrictions or if they are hoping to avoid going on restrictions. Council President Paulsen asks how The City of Dayton got to this point, Public Works Director Snyder explains that a part of the issue is with how deep the wells can be drilled down.

- a. *Code Enforcement*
No discussion.
- b. *Administration: Accounts Payable*
No discussion.
- c. *Public Works*
- d. *Fire Department*
No discussion.
- e. *Yamhill County SO Report*
No discussion.

10. COUNCILOR'S REPORTS:

No councilor reports.

11. MAYOR'S REPORT:

Mayor Malcomson shares she is welcoming new businesses to town and working on getting things planned and on the calendar for the Holiday season.

12. ADJOURNMENT:

Council President Paulsen moved to adjourn; Councilor Carswell seconded the motion, which passed unanimously. No further discussion.

Minutes approved on the 10th day of October 2024.

CERTIFIED:

ATTESTED:


Hilary Malcomson, Mayor


Kennedee Richardson, City Recorder