

DRAFT 09/2/2010

CITY OF LANGLEY, WASHINGTON

ORDINANCE NO. 948

AN ORDINANCE of the City of Langley, Washington, establishing, for this mayoral term, the salary and benefits of the Mayor as an elected official and chief executive and administrative officer of the City of Langley; and repealing Ordinance No. 912 and Ordinance No. 937.

WHEREAS, the City Council, using the framework provided by Section 2.06.017 of the Langley Municipal Code (“LMC”), previously passed Ordinance No. 912 in recognition that the current Mayor, in accord with the adopted plan of administration, has expanded his direct responsibilities to include those that were previously handled by a City Administrator, and that the Mayor should receive benefits and a salary commensurate with these expanded responsibilities; and

WHEREAS, Section 2 of Ordinance No. 912 stated that the Mayor “shall be required to perform an average of forty (40) hours per week in the conduct of the duties of the Mayor, with regularly scheduled office hours”; and

WHEREAS, Section 3 of Ordinance No. 912 provided that the Mayor would be “deemed an employee of the City” and receive “an annual salary and benefits equivalent to the established salary and benefits schedule of other City department heads”; and

WHEREAS, Ordinance No. 937 amended Section 2 of Ordinance No. 912 to recognize that many of the Mayor’s work hours are “performed outside City Hall and normal working hours” but also required the Mayor to “maintain a written record of all of his work hours”; and

WHEREAS, concerns were raised about whether Ordinance No. 912 and Ordinance No. 937 had somehow changed the status of the Mayor from an elected official and chief executive and administrative officer of the City to that of an employee; and

WHEREAS, on April 26, 2010, Greg Banks (Island County Prosecuting Attorney) issued a letter that questioned whether the work hours or vacation days of the Mayor as an elected official could be regulated by a City ordinance; and

WHEREAS, on July 6, 2010, written legal opinions obtained from both the law firm of Weed, Graafstra and Benson (legal advisor to the City), and from Pat Mason (legal counsel, Municipal Research Services Council) regarding whether Ordinance No. 912 and Ordinance No. 937 made the Mayor an “employee” of the City, and said opinions indicated such was beyond the legal authority of the City Council under applicable state law; and

WHEREAS, these matters were discussed at both the workshop and regular business meeting of the City Council on July 6, 2010, and the City Council expressly clarified that they never intended to make the Mayor an employee of the City or provide

him with a defined number of vacation days when the Council passed Ordinance No. 912 and Ordinance No. 937; and

WHEREAS, at the July 6 meetings, a Council Committee consisting of Council Members Russell Sparkman and Fran Abel was established and directed to work with the City's legal advisors to prepare this ordinance that clearly states the salary and benefits of the Mayor and expressly recognizes that the Mayor is not an employee of the City; and

WHEREAS, the City Council finds that it is in the best interests of the City and the public to enact this ordinance to clearly state the salary and benefits of the Mayor and expressly provides that the Mayor is not and has never been intended to be an employee of the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANGLEY WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 912 and Ordinance No. 937 are hereby repealed.

Section 2. The City Council adopts the plan of administration presented by the Mayor as follows: The Mayor's Office will consist of the Mayor and a half-time special assistant to the Mayor with no direct supervisory responsibilities. The Mayor, consistent with the provisions of RCW 35A.12.100, will be directly supervising, administering and coordinating activities and functions of the various City employees, departments, commissions and boards in implementing the requirements of all City ordinances and City Council policies; assuring the effective and efficient utilization of City employees, funds, materials and other resources; directing and controlling the overall operations of the City to assure optimum services to the community; and providing general supervision over the administrative affairs of the City.

Section 3. Based on LMC 2.60.017 and based on the responsibilities and plan of administration described in Section 2 above, the City Council deems that the Mayor should receive a salary and benefits commensurate with his plan of direct, regular involvement in the day to day operations of the City. Therefore, the Mayor's salary for this mayoral term shall be as follows: Effective September 2008, the Mayor shall receive an annual salary for the 2008 year of Thirty One Thousand Dollars (\$31,000.00). Effective January 1, 2009, the Mayor shall receive an annual salary of Fifty Three Thousand Five Hundred and Thirty Two Dollars (\$53,532.00).

Section 4. The Mayor shall also receive for this mayoral term the following benefits that shall be administered in the same manner as those benefits are administered for the City's department heads in so far as his status as an elected official will allow:

- A. Health, vision care, dental and medical benefits, including co-payment and incentive programs; and
- B. All benefits to which he is entitled by state and federal law, including that, in the event that the Mayor may choose to participate in and be covered by the Washington State Public Employment Retirement

System (PERS), the required monthly PERS contributions by the Mayor and the City shall be in accordance with applicable state law.

Section 5. The Mayor shall have reasonable use of City facilities and equipment, including a City vehicle, for official business. The Mayor shall be reimbursed for expenses legally incurred in the conduct of his duties as Mayor, including for routine and continuous use of his private vehicle for official business.

Section 6. It is expressly recognized that the Mayor is an elected official and the chief executive and administrative officer of the City of Langley and is not a City employee. Nothing in this ordinance is intended to or should be construed, interpreted and/or applied in a manner that would indicate, suggest or hold otherwise.

Section 7. Severability. If any section, paragraph, subsection, clause or phrase of this ordinance is held invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 8. Effective Date. This ordinance shall be in full force and effect five (5) days after publication and posting of an approved summary thereof, consisting of the title.

PASSED BY THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, and approved by the Mayor at a regular meeting held this ____ day of _____, 2010.

PAUL O. SAMUELSON, Mayor

ATTEST:

DEBBIE L. MAHLER, Clerk-Treasurer

APPROVED AS TO FORM:

GRANT K. WEED, City Attorney

PUBLISHED: South Whidbey Record - _____