

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, APRIL 2, 2008**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of April 2, 2008, was called to order by Mayor Mounce at 6:15 p.m.

Present: Council Members – Hansen, Hitchcock, Johnson, Katzakian, and Mayor Mounce

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and Deputy City Clerk Perrin

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Pursuant to Government Code §54956.9(c); Conference with Legal Counsel; Anticipated Litigation/Initiation of Litigation Regarding MBIA Bond Insurance on the Series 2002 Electric System Revenue Certificates of Participation; One Potential Case

b) Actual Litigation: Government Code §54956.9(a); One Case; *City of Lodi, et al. v. EBMUD*, State Water Resources Control Board, Application No. 13156

C-3 ADJOURN TO CLOSED SESSION

At 6:15 p.m., Mayor Mounce adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:02 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:09 p.m., Mayor Mounce reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Item C-2 (a) was discussion only; no reportable interest. Mr. Schwabauer reported that this issue would be presented to Council on the Regular Calendar.

Item C-2 (b) was discussion only; no reportable interest. Mr. Schwabauer pointed out that approval of the settlement agreement was on the Consent Calendar.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of April 2, 2008, was called to order by Mayor Mounce at 7:09 p.m.

Present: Council Members – Hansen, Hitchcock, Johnson, Katzakian, and Mayor Mounce

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and Deputy City Clerk Perrin

B. INVOCATION

The invocation was given by Father Brandon Ware, St. Anne's Catholic Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Mounce.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Mounce presented a proclamation to Nancy Martinez, Library Services Director, proclaiming April 13 – 19, 2008, as "National Library Week" and Tuesday, April 15, 2008, as "National Library Workers' Day" in the City of Lodi.

- D-2 (b) Mayor Mounce presented a proclamation to Richard Jones, Executive Director of the Lodi Boys and Girls Club, proclaiming the week of March 31 – April 4, 2008, as “National Boys and Girls Club Week” in the City of Lodi. Berkley Price, 2007 Youth of the Year, reviewed the events of the week, which included gaming tournaments, walk-a-thon around Blakely Park, change-over day, picnic in the park, and sports day.
- D-2 (c) Mayor Mounce presented a proclamation to Michael Gold with the Lodi Fire Department setting Saturday, May 3, 2008, as the date for the Firefighter Muscular Dystrophy Association “Fill the Boot” fundraiser at the intersection of Tienda Drive and Kettleman Lane. Mr. Gold reported that last year \$10,717 was raised for the cause and this year the goal is to raise \$16,000.
- D-3 (a) Mayor Mounce presented a Resolution of Appreciation to Public Works Director Richard Prima who will be retiring from the City of Lodi after 33 years of service to this community as the Public Works Director, City Engineer, Assistant City Engineer, Chief Civil Engineer, and Associate Civil Engineer. Mr. Prima expressed his great pleasure in working for the City of Lodi and shared that it was always his strong desire to work for the public.
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E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Johnson, Katzakian second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- E-1 Claims were approved in the amount of \$4,368,217.19.
- E-2 The minutes of March 5, 2008 (Regular Meeting) and March 19, 2008 (Regular Meeting) were approved as written.
- E-3 Approved the request for proposals for audit services and authorized the advertisement for proposals.
- E-4 Approved the request for proposals to replace and upgrade the existing remote meter reading system and services for time-of-use electric customers (large customer class) and authorized the advertisement for proposals.
- E-5 Approved the plans and specifications and authorized advertisement for bids for Lower Sacramento Road West Frontage Road Wastewater Pipe Improvements (Bayberry Drive to Tejon Street).
- E-6 Approved the specifications and authorized advertisement for bids for 3,000 tons of asphalt materials for fiscal year 2008-09.
- E-7 Adopted Resolution No. 2008-47 rejecting the low bid and awarding the purchase of a self-propelled mini-digger derrick to the lowest responsive bidder, Utility Equipment Leasing Corporation, of Sacramento, CA, in the amount of \$119,574.45.
- E-8 Adopted Resolution No. 2008-48 rejecting the two low bidders and awarding the purchase of a portable self-contained vacuum excavation unit to the lowest responsive bidder, Ditch Witch Equipment Company, Inc., of Sacramento, CA, in the amount of \$58,082.66.
- E-9 Adopted Resolution No. 2008-49 authorizing the procurement of padmounted liquid insulated vacuum switchgear and accessories from Trayer Engineering Corporation, of San Francisco, CA, in an amount not to exceed \$75,000.
- E-10 Adopted Resolution No. 2008-50 accepting the improvements at 495 North Guild Avenue.
- E-11 Adopted Resolution No. 2008-51 accepting the improvements at 555 North Guild Avenue.

- E-12 Adopted Resolution No. 2008-52 authorizing the City Manager to execute an amendment to the transit operations contract with MV Public Transportation, Inc., extending the contract through August 3, 2008, and additional amendments, as necessary, for two additional months.
- E-13 Adopted Resolution No. 2008-53 authorizing the City Manager to execute East Bay Municipal Utility District Protest Dismissal Agreement.
- E-14 Adopted Resolution No. 2008-54 adopting the proposed funding targets for City of Lodi and city of Galt for the Federal Transit Administration Section 5307 funding for the Lodi Urbanized Area (Federal Fiscal Years 2008-12).
- E-15 Adopted Resolution No. 2008-55 approving the City of Lodi Arts & Cultural 2007-08 grant funding, as approved by the Lodi Arts Commission, and appropriating funds in the amount of \$50,000.
- E-16 Adopted Resolution No. 2008-56 declaring the National Incident Management System as the standard for emergency response in the City of Lodi.
- E-17 “Adopt Resolution Ratifying Employment Agreement Entered into Between City Manager Blair King and Director of Public Works F. Wally Sandelin” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-18 Authorized the Deputy City Manager/Treasurer to enter into agreement with Farmers and Merchants Bank of Central California for the issuance of a City credit card for Public Works Director F. Wally Sandelin.
- E-19 Set public hearing for April 16, 2008, to consider the Annual Report for Sidewalk Repairs and to confirm the Report as submitted by the Public Works Department.
- E-20 Set public hearing for April 16, 2008, to consider adopting resolution adjusting Consumer Price Index-based water and wastewater rates.
- E-21 Adopted the following resolutions regarding annexation of Luca Place Zone 14, Guild Avenue Industrial Zone 15, and West Kettleman Lane Commercial Zone 16 to the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1:
- Resolution No. 2008-57 of preliminary approval of the Engineer’s Report regarding the proposed annexation of territory into the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and the levy and collection of assessments for fiscal year 2008-09;
 - Resolution No. 2008-58 declaring intention to annex territory into Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and to provide for the levy and collection of assessments in such annexation, setting a time and place for public hearing thereon, and ordering the initiation of assessment ballot procedures; and
 - Resolution No. 2008-59 initiating proceedings for the annexation of territory into the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and the levy and collection of assessments for certain zones for fiscal year 2008-09.

ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-17 “Adopt Resolution Ratifying Employment Agreement Entered into Between City Manager Blair King and Director of Public Works F. Wally Sandelin”

This item was pulled by Mayor Mounce for further discussion.

Mayor Mounce stated that, because of her concern regarding the six-month severance pay, she would not support the matter; however, she stated she believed Mr. Sandelin was an excellent choice to serve as Public Works Director.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hansen, Johnson second, adopted Resolution No. 2008-60 ratifying the Employment Agreement entered into between City Manager Blair King and Director of Public Works F. Wally Sandelin. The motion carried by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Johnson, and Katzakian

Noes: Council Members – Mayor Mounce

Absent: Council Members – None

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Barbara Flockhart expressed her opposition to redevelopment, stating that the money is paid back with high interest rates, redevelopment is another layer of government made up of Council Members, and the agency can sell bonds without voter approval. In order to overturn this action, a petition would require signatures of 10% of the registered voters in Lodi within 30 days of Council action. Ms. Flockhart stated that redevelopment can give public money to developers and private businesses in the form of tax rebates, free land, or public improvements and that redevelopment can condemn private property and transfer it to a private owner, despite the fact Council elected not to use eminent domain. Lodi would have 40 years to pay back the money with interest, and she stated that redevelopment would take money from the City's general fund. She urged Council to allow Lodi residents to vote on this matter.
- Nancy Beckman, Executive Director of the Lodi Conference and Visitors Bureau (LCVB), presented each Council Member with a DVD of Huell Howser's road trip to Lodi and announced that the show may be viewed in its entirety on its website at www.visitlodi.com. Ms. Beckman further provided information regarding the LCVB group sales program, stating that there are groups visiting Lodi every month that bring money into Lodi, resulting in a positive impact on the economy.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Johnson reported that he attended a meeting with the San Joaquin County Sheriffs Department and Board of Supervisors regarding the County jail, which is presently inadequate and too small. Because of this dilemma, prisoners are being released early, and the County is researching ways to fund a new jail, which is anticipated to cost \$170 million. The County is confident that it has the funding and matching grants to construct the jail; however, it does not have adequate funding for operation and maintenance. Some of the suggestions for covering these costs include parcel tax, sales tax, community benefit district fee, long-term bonds, service tax fee, and vehicle tax increase. Mr. Johnson further commented on the recent blogs regarding the City Manager's performance, reminding the community that Mr. King is reviewed annually by the Council on his performance and to date he has received positive results. This has been a difficult three years for the City of Lodi, Council, and staff, and he believed Mr. King has done an excellent job.
- Council Member Hitchcock thanked Father Brandon Ware from St. Anne's church for giving the invocation this evening, stating that it has been a while since the Catholic Church has participated. In regard to redevelopment, Ms. Hitchcock stated that, during one of Council's sessions, a representative from Manteca stated that it received \$17 million in revenue from its redevelopment agency. This is money that would otherwise be collected and given to the state or county. Further, Ms. Hitchcock announced that achievement tests will be given to students in the Lodi Unified School District during the week of April 8 through May 1.
- Council Member Hansen reported that he represented the Mayor at the 2008 American Red Cross Heroes breakfast, at which 11 people were recognized as local heroes. In regard to a recent letter to the editor concerning the Wal-Mart Supercenter, Mr. Hansen clarified that the City is not holding up this project. Following the initial hearing process, the matter of restricting the size of "big box" retail establishments was placed on the ballot, which was unsuccessful. The Council subsequently approved the project; however, organizations in the community hired

attorneys to dispute the Environmental Impact Report (EIR), and the court ruled that certain elements of the EIR were to be modified. The City has made progress on revising the EIR, which will be coming back to Council in the near future, and he stressed that the City has not changed its mind or taken this out of the approval process. Council Member Hansen reported that significant progress is being made on the new Lodi Energy plant with construction anticipated for early 2010. Lodi's share of this 255-megawatt plant is 30 megawatts, which will cover the City's base load. In regard to Highway 12, Mr. Hansen reported that an additional \$26 million has been allocated toward the original \$21 million and that the State of California will be contributing \$49.4 million. Improvements will be made between Terminus and Bouldin Island and will include shoulder rehabilitation, intersection improvements, and safety enhancements; it will not, however, widen Highway 12. Mr. Hansen further reported that he and County Supervisor Ken Vogel have been appointed to the Corridor Advisory Committee and announced that he will be attending the San Joaquin Council of Governments' One Voice trip to Washington D.C., at which he will lobby for Federal money for Highway 12.

- Mayor Mounce reported that she requested Communications Specialist Jeff Hood to prepare a column for the Lodi News Sentinel to clarify the past steps and future timeline for the Wal-Mart Supercenter. Ms. Mounce requested that City Manager King look into and respond to Mrs. Bise who recently wrote a letter to Council regarding Turner Road and Lower Sacramento Road speed limits related to truck travel. She further reported on her attendance at the League of California Cities meeting in Modesto, at which she heard presentations from Senator Jeff Denham regarding balancing the State budget and from State of California Deputy Secretary of Business Regulation and Housing, Heather Peters, regarding foreclosure rates. Ms. Mounce requested that Mr. King look into the information provided by Ms. Peters, which indicated that Lodi's foreclosure rate may be worse than expected.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

None.

I. PUBLIC HEARINGS

None.

J. COMMUNICATIONS

J-1 Claims Filed Against the City of Lodi – None

J-2 The following postings/appointments were made:

- a) The City Council, on motion of Mayor Mounce, Hansen second, unanimously directed the City Clerk to post for the following expiring terms and vacancies:

Greater Lodi Area Youth Commission

Adult Advisor:

Isaac Morales Term to expire May 31, 2008

Student Appointees:

Megan Connors Term to expire May 31, 2008

Lee Kraljev Term to expire May 31, 2008

Amanda Stevens Term to expire May 31, 2008

Jacob Pearson Term to expire May 31, 2008

Joseph Price Term to expire May 31, 2008

Jonathan Newman Term to expire May 31, 2009

Corinne Casey Term to expire May 31, 2009

Library Board of Trustees

Juan Villarreal Term to expire June 30, 2008

Lodi Arts Commission

Judy Bader Term to expire July 1, 2008

Lodi Budget/Finance Committee

John Johnson Term to expire June 30, 2008
Dave Kirsten Term to expire June 30, 2008
Kurt Roberts Term to expire June 30, 2008

Planning Commission

Wendel Kiser Term to expire June 30, 2008
Dennis White Term to expire June 30, 2008

- b) The City Council, on motion of Council Member Hitchcock, Johnson second, unanimously made the following appointment:

San Joaquin County Emergency Food and Shelter Program

Community Improvement Manager Unspecified term limit

J-3 Miscellaneous – None

K. REGULAR CALENDAR

K-1 “Approve Business Points for Solid Waste Franchise Renewal”

City Manager King briefly introduced the subject matter, stating that, if these business terms are satisfactory to Council, staff would proceed to possible development of a franchise with Central Valley Waste Services (CVWS); otherwise, the alternative would be direction to move forward with a proposal for solicitation of solid waste services.

Public Works Director Richard Prima reported that State law allows cities to negotiate franchise agreements for solid waste and the City has historically done so. The current franchise agreement runs through March 2010 with a one-year notice required on renewal. On December 17, 2007, Council directed staff to begin negotiations early for best leverage with ample time to go out to bid if necessary. Mr. Prima reviewed the negotiation goals, which include working within the existing franchise agreement, no major changes in the basic service and rate structure, keeping rates where they are now, and improving services to customers for special trash removal and to the public overall in keeping the City clean. Staff held internal meetings and met with CVWS representatives and is seeking Council direction on these main business points before drafting the detailed document. There are still issues to consider on some of these points, such as growth factors and addressing internal changes, before the details can be finalized, at which time staff will return to Council for approval of a franchise agreement extension.

Mr. Prima reviewed the main business points, as detailed below:

- Street sweeping function handled by CVWS. The service would be provided at the same frequency, or more often, as the City and would include downtown and winter leaf pickup. Customers would be asked not to pile leaves, and an additional recycle container would be made available to customers. The State Public Resources Code authorizes cities to contract for this service, and the City’s current ordinance allows the City to decide how this service is best handled. Other cities are taking advantage of this provision and are including the service in their solid waste arrangements.
- Public on-street trash container service. Currently, City maintenance workers service these containers (mainly in the Downtown area and some transit stops), but staff views this as part of the waste service.
- City service. CVWS would service trash containers at City facilities, including parks.
- Billing service. Currently, the City bills solid waste service along with electric, water, and wastewater. The advantage of doing so is a unified bill; however, it also increases collections. The City charges CVWS for the billing expenses, and staff is suggesting it increase in the future based on the Consumer Price Index (CPI), rather than a fixed amount.

- Hazardous waste. CVWS has been cooperative in holding special waste collection events in Lodi; however, staff would like to include that element in the franchise as a requirement.
- Annual rate adjustments. CVWS is requesting a change in the formula from 80% of the CPI to 100% of the CPI.
- Renewal term. Term would be seven years with one CVWS option to renew for an additional seven-year term. Staff is recommending that the new term begin in 2008.
- Technical ordinance revisions. Currently, industrial waste is not part of the franchise. Industries are allowed to make their own selection for trash service due to the fact that their waste product is specialized, the amount of materials is greater, and that special handling may be required. The selected waste hauler is required to enter into an agreement with the City. The suggestion is that the franchise be clarified that the industrial manufacturing is occurring in Lodi; not outside the City. Further, staff is recommending the franchise be refined to state that construction and demolition debris occurs when there is a building permit in progress.
- Compactor rates. Some large businesses use industrial-scale trash compactors that are labor intensive to empty; CVWS is requesting a separate rate for that category.

Mr. Prima pointed out that the service impacts include street sweeping not subject to City budget fluctuations, improved leaf pick up, and special waste collection events in Lodi rather than the County. Financially, there would also be a direct savings of over \$300,000 and a gain of almost \$400,000 in redirected staff/costs for items such as sweeper replacement; sweeper operation and maintenance; dump charges; leaf pick up; on-street, parks, and facilities; and billing (increased reimbursement). Mr. Prima stated that redirection of staff does not translate to termination of jobs as there are other duties or Parks and Recreation could absorb the labor freed up by these changes. These savings would come from the street, wastewater, and general fund. There is no rate impact in 2008 and future increases are CPI based. There is a provision in the franchise for "extraordinary fuel and dump fees," and the annual average CVWS revenue difference from 80% CPI to 100% CPI would be approximately \$47,000 based on data from the past three years, which would equate to a 13-cent monthly service charge difference for a 38-gallon can. Mr. Prima pointed out that it is expected to be a tight budget year with State issues, difficulties with the economy, and property tax changes and it may be beneficial to the City to have CVWS absorb these costs out of its profits.

In response to Council Member Hitchcock, Mr. Prima stated that the formula based on percentage of CPI came in during the last contract extension. Council Member Hitchcock stated she would like the percentage to remain at 80%. Ms. Hitchcock questioned how CVWS could perform the street sweeping and leaf pick-up service for less. Mr. Prima responded that CVWS has all of the necessary equipment in order to perform the service more efficiently and effectively and it has invested money into this long-term franchise, which allows CVWS to amortize its costs. In response to Ms. Hitchcock, Mr. Prima stated that staff would contact other cities to see how effectively this service is working for them.

Mr. King stated that there is no recommendation of reducing the streets or storm drainage budgets due to potential savings. The amounts would remain the same and be put to other uses including paving, sidewalk repair, etc. He further pointed out that CVWS is at a slight disadvantage in that these negotiations are done in public.

In response to Council Member Johnson regarding renewing the franchise in 2008 versus 2010, Mr. Prima stated that the start date is still open; however, if agreement can be reached quickly, it may be prudent to implement the new business points sooner in order to benefit from the savings. In regard to extraordinary fuel costs, Mr. Prima explained that CVWS submits data that is compared to the fuel price index. Mr. Johnson requested that staff look into whether or not the city of Stockton or its hauler handles leaf pick.

In response to Mayor Mounce, Mr. Prima stated that the City currently has one new street sweeper, one that is over three years old, and one that is much older and that two of the units are compressed natural gas vehicles. Further, Mr. Prima responded that staff had a meeting with Street Division employees in early March and one today to discuss the issue of street sweeping. The discussion centered on redirecting work force, improving sign maintenance, storm pumping, and possible contract oversight. He stated that there are still many details to research. Mayor Mounce questioned how long the City has been providing street sweeping and leaf removal, to which Mr. Prima responded most likely indefinitely. In response to Ms. Mounce, Mr. Prima stated that the cost to resume this program, should the City or CVWS decide to no longer contract out this function, would depend on the factors at that time. The franchise would include a one-year notice that would provide time to contract out the service to another agency or take it back in house. He added that purchasing multiple sweepers all at once would be a financial burden, but staff does intend to retain one sweeper for City use. The franchise would include language to protect the City should the service provided by CVWS be unacceptable.

Mayor Mounce expressed disappointment that her requests from three years ago to receive data from the test streets where vehicles were removed prior to street sweeping resulted in no response whatsoever from staff. She further expressed concern that very little communication has occurred on this matter with both Council and employees. In regard to the test streets, Mr. Prima stated that staff has conducted some tests, but he pointed out that it is a separate issue from who will handle the street sweeping as cars will need to be removed from the street regardless.

Thom Sanchez, representing CVWS, stated that negotiations commenced with the City in January. The agreement was radically changed in 2002, at which time it went from a cost plus guarantee-type of profit to the CPI, and CVWS agreed to the 80% of CPI formula in order to finalize the agreement. The 100% of CPI formula equates to a differential of \$47,000 annually, but it will cost significantly more to provide the extra services.

Dave Stratton, Market Controller with CVWS, added that it is able to offer these extra services due to the fact that the extension of the franchise is a valuable commodity and the longer the franchise, the better.

Steve Haley, Public Works employee and street sweeper operator, spoke in opposition to contracting out the street sweeping service, stating that the City has proven to be cost efficient because it does not operate on a profit. He believed that CVWS will ask for more money as soon as the City sells its equipment and that citizens will be disappointed when they are charged for a service for which they are already paying. Mr. Haley expressed concern that leaves will need to be bagged, rather than left in the street for pick up, and that CVWS would not be able to adequately handle the amount of leaves and debris during heavy storms, which could result in overtime to manually clear the streets or potential pump damage. He stated that, if Council is interested in contracting out this service, it should be put to formal bid.

Council Member Hitchcock expressed her desire that Mr. Haley and other employees with this expertise be included in the process of formulating a contract. She believed, however, that budget constraints over the last three years has reduced staff to minimal levels and this proposal would reduce the burden on the work load, thereby allowing the City to provide a higher level of service to citizens in other areas. She expressed support for pursuing this matter further.

Council Member Johnson requested that Mr. Haley provide a copy of his prepared statement to the Council Members, which he stated he would supply.

Mayor Mounce stated she hoped that staff will involve employees in future discussions.

RECESS

At 9:11 p.m., Mayor Mounce called for a recess, and the City Council meeting reconvened at 9:23 p.m.

K. REGULAR CALENDAR (Continued)

K-1 Mark Ruggiero, president of the American Federation of State, County, and Municipal Employees, stated that the City provides this service for less than contracting it out because the City does not need to make a profit. He stated that this is an issue of meet and confer with the union and that the union will be preparing its own packet of information, as it does not agree with the numbers presented by staff.

Felix Huerta, business agent for the American Federation of State, County, and Municipal Employees, also expressed opposition to contracting out this service, stating that the City has proven to be more cost effective. He suggested that the City consider increasing the franchise fee with CVWS, stating that other cities have a franchise fee ranging from 8% to 20%, but Lodi has the lowest rate at 4.8%. The current franchise agreement states that complaints shall be handled by management at CVWS; however, the Finance Department has data demonstrating that approximately 30 complaint calls are received in its office each week. Mr. Huerta pointed out that the survey cities presented this evening were different than those at the Council meeting in December and he believed the meeting with employees today was done only because the City heard there would be an employee presence at this meeting. He questioned why the City was not going out to bid for this service, expressed concern regarding the accuracy of the data that has been presented thus far, and stated that he believed citizens would ultimately be charged more for this change in service.

Gene Davenport questioned why the City does not have the appropriate equipment to handle trash pick up at the parks more effectively and whether CVWS had any clean air vehicles in its fleet. He was opposed to contracting out this service and stated that the street sweeping and leaf pick-up service provided by CVWS in Stockton is not adequate.

Jason Altnow expressed support for CVWS and the great job it has done in this community and further commended the City for its good business sense, judgment, and creativity in looking at ways to get the job done in a more cost effective manner. He urged Council to consider this proposal and also stressed that employees be included in the discussions as they have the experience to help oversee the program.

Thom Sanchez responded to various questions, stating that CVWS, along with another hauler, services the city of Stockton and it is proposing the same program for Lodi. CVWS contracts in other local cities have been extended due to its satisfactory performance, and he added that the franchise agreement would have a performance clause giving the City the right to pull equipment and cancel the program should CVWS not operate at an acceptable level. Waste Management has the largest fleet of alternative fuel vehicles in the nation, and, although it does not currently have any in the Lodi fleet, it does abide by state regulations for air emission reductions.

Council Member Hitchcock expressed support for extending the contract due to the high level of service and stated that she would like the best deal for the citizens of Lodi at the best price. She questioned if raising the percentage of the franchise fee would in turn raise the cost to citizens, to which Mr. Sanchez responded in the affirmative, explaining that Stockton may have a 20% franchise, but it does not have the lowest rate on the matrix. Council Member Hitchcock requested that staff provide Council with a comparison of the franchise fees and rates of other cities.

Mr. Prima clarified that the City is not unhappy with the street sweeping and leaf pick-up service it is currently providing; rather, this is a cost to the City that could be shifted to CVWS (instead of increasing the franchise fee) and used for other purposes.

Council Member Johnson questioned if “meet and confer” means “meet and agree,” to which Human Resources Manager Dean Gualco responded in the negative.

Mr. King stated that one option would be to drop the street sweeping component and discuss franchise payments with that revenue being devoted to the street fund.

Mayor Mounce believed that CVWS has done an outstanding job, but she is concerned with contracting out the street sweeping and leaf removal because the City has been adequately providing this service for quite some time in a cost efficient manner.

Council Member Hansen requested that Council be provided with the data documenting complaints regarding CVWS received by the Finance Department. Mr. Hansen stated that even the City has not found a way to deal completely with flooding of the streets due to excessive leaves. CVWS has made an investment in this community with its station, equipment, trucks, etc., and a new company would have to start all over or buy-out the existing company. He expressed support for remaining at the 80% of CPI level, stated he was in favor of further researching the street sweeping proposal because of the money it could save the City, and stated the importance of providing the highest level of service to the citizens at the lowest possible cost. He stressed that the franchise agreement include protection or a penalty should the service be inadequate.

There was Council concurrence that staff continue to negotiate with CVWS based on the business points presented and return to Council with a more detailed agreement. Mayor Mounce stressed that staff include employees and their expertise in this process.

MOTION/ VOTE:

There was no Council action taken on this matter.

NOTE: Item K-4 was discussed and acted upon out of order.

K-4 “Presentation of Financing Options for Outstanding Electric Utility Variable Rate Debt Obligation Certificates of Participation (\$46.7 Million) and Authorization for City Manager to Procure Necessary Services Related to Restructuring These Obligations”

City Manager King briefly introduced the subject matter, stating that staff is not in a position to make a recommendation at this time and it may be necessary to schedule a special meeting on a relatively short notice.

Deputy City Manager Jim Krueger reported that the Electric Utility variable rate debt obligations were originally issued to refund bonds issued in 1999 for \$46.7 million, which were used to finance various facilities throughout the City. Interest rates at the time were at historic lows and this resulted in a cost savings for the City. At the same time, the City entered into a swap agreement, which was a trade of receipts for payments, that would hedge what would happen if interest rates increased beyond that point; however, interest rates have reduced even further, which has resulted in a negative value to the City of approximately \$10 million. The current letter of credit will expire in January 2009, and staff has researched options for ways to mitigate this effect, while considering sensitivity to the electric rates and providing stability within the utility fund.

In response to Council Member Hitchcock, Mr. Krueger explained the various scenarios:

- The current interest rates on the debt have gone from 2% to 4%, which caused some holders of those bonds to redeem them and get their money back. Those bonds can then be converted to bank bonds, and the interest rate jumps from 4% to prime rate plus 2%; therefore, the City would be paying on the full \$46.7 million at an 8% interest rate. The annual additional cost to the City would be \$1.5 million to \$2 million.

- If the City is unable to renew the letter of credit or take some other steps to alleviate the variable rate debt obligations, the entire \$46.7 million would be converted to bank bonds and the City would be required to amortize the entire amount over 5 years instead of 24. With the higher interest rate and accelerated amortization, the debt to the City would equate to \$8 million annually.
- If interest rates do not change appreciatively, the City could be faced with a \$10 million payment on the termination of the swap agreement.

Mr. Krueger stated that the hope is the financial markets will return to a more stable condition and the objective is to provide fixed costs on the debts that are outstanding.

Mr. King stated that one option is to do nothing and hope the markets return to a stable condition, at which time the City's bonds would become more desirable. The bonds were insured with MBIA, which has recently experienced some trouble on the market that has resulted in the investment community not viewing MBIA as an asset. If the market stabilizes, MBIA would once again become reliable as would the City's bonds. If the City's letter of credit expires, the City would be faced with paying off the \$46.7 million with a higher interest rate and shorter amortization period. The swap agreements, which made sense at the time, are now a negative value, and if MBIA were to fall below a AA- rating the City could fall below a BBB-, which would result in the \$10 million swap being payable at that time.

In response to Mayor Pro Tempore Hansen, Mr. Krueger confirmed that Lodi is not the only city in this situation and that this is the last remaining swap agreement and variable rate bond.

In response to Council Member Johnson, Tom Dunphy with Lamont Financial Services stated that there are seven major bond insurers and only two are healthy. The others, including MBIA, are in different degrees of trouble. The rating agencies are unsure of MBIA's strength and are waiting out the market. Mr. Dunphy responded that some communities may still choose a variable rate bond because they cannot afford a fixed rate or do not have the system revenue to pay it.

In response to Mayor Mounce, Mr. Krueger stated that Lodi is considering a fixed rate bond, assuming the electric rates could withstand it; however, that may not be viable and the City would need to contemplate a variable rate bond.

Mr. King stated that Council will need to determine the best option and explained that some of the factors to consider are security, liquidity, and yield. The City could convert to a fixed rate bond and terminate the swap; however, it would be at a high cost, which the City may not be able to afford.

In response to Council Member Johnson, Mr. Dunphy explained that refinancing and pushing the most expensive portion of the debt to the end would not be the best approach.

Council Member Hitchcock questioned if this would affect the rates as there is very little reserve in the Electric Utility fund, to which Electric Utility Director George Morrow responded that this could have an impact on the rates; however, staff is still in the process of analyzing the data. In the short term, it could be absorbed by the current rate structure, but at some point during the 30-year debt it may result in an increase of around 1%. Ms. Hitchcock stated she would opt for a 1% increase in rates if it would help to maintain the creditworthiness of the City.

In response to Council Member Johnson, Mr. Dunphy stated the problem is that the capital markets are in flex. Refinancing the entire package would result in a significant expense to the City, but a fixed rate would get the City out of this situation. If the City waits and pays market points to the bank to extend the letter of credit and the market holds, the variable

rate side and market side would be resolved and the City would be back to the position it was in before these difficulties arose; however, the issue of the swap agreement would still exist. Mr. Dunphy stated he is most worried about the downgrade of MBIA, which could negatively affect the City if the rating agencies decide to downgrade Lodi's rating.

Further discussion ensued between Council Member Johnson, Mr. Dunphy, Susan Weil with Lamont Financial Services, Mayor Mounce, and Mr. King regarding the letter of credit, current and future market conditions, health of MBIA, and the swap agreement. Mr. King stated that staff has submitted the letter of credit application to the bank, and Mr. Dunphy added that it went to the credit committee and the City should receive a formal response within the next week asking the City to enter into an agreement. Mr. King stated that the decision point will be when the City receives this response and that the choice will be to enter into a letter of credit and wait for the markets to settle or decline and assume a full-scale refinancing.

In response to Mayor Pro Tempore Hansen, Mr. Krueger stated that at a minimum the City would like to retain its current rating because the need to purchase energy will require the City to go out to the market in search of financing.

Council Member Katzakian questioned if the City would be better off refinancing the entire package in order to maintain the rating, to which Mr. Morrow responded that most of the larger capital purchases are a number of years away and it would be a burden to do that now. The City may also be able to piggyback on the financing.

Mr. King stated that staff will continue to talk with the bank, refine the details, and make additional calculations to determine the capacity to handle the full cost plus the negative value of the swap. He added that the City has had offers of assistance from local banks, but Mr. Dunphy explained that the first choice is to use a bank with a national credit rating.

Council Member Johnson requested that, when this matter comes back before Council, it be scheduled for either a special meeting or Shirtsleeve Session along with representatives from Lamont Financial Services.

MOTION / VOTE:

There was no Council action taken on this matter.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Pro Tempore Hansen, Hitchcock second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

K. REGULAR CALENDAR (Continued)

K-2 "Provide Staff Direction Regarding Water and Wastewater Rate Revenue Accounting" was ***pulled from the agenda.***

K-3 "Introduce Ordinance Amending Lodi Municipal Code Section 2.08.020 Relating to City Council Salaries"

MOTION / VOTE:

The City Council, on motion of Council Member Johnson, Hansen second, introduced Ordinance No. 1810 amending Lodi Municipal Code Section 2.08.020 relating to City Council salaries. The motion carried by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Johnson, and Katzakian

Noes: Council Members – Mayor Mounce

Absent: Council Members – None

- K-5 “Adopt Resolution Authorizing the City Manager to Execute \$2.15 Million Purchase and Sale Agreement for 9.09-Acre Electric Utility Property Located at 500 South Guild Avenue to GG Land Group LLC”

Electric Utility Director George Morrow briefly introduced the subject matter, stating that one offer was received on the 9.09-acre Electric Utility property located at 500 South Guild Avenue. He pointed out that the City would retain the two acres on the south side for future projects or expansion. The most recent assessment done in March 2008 indicated a market value of \$2.07 million, and the offer before Council is for \$2.15 million with a 90-day buyer due diligence period. The buyer, G.G. Land Group from Chicago, Illinois, will build a five-acre industrial complex and rent the remaining four spaces to a single user. G.G. Land Group is committed to make a good faith effort to submit a development plan to the City within one year of closing. After closing costs, this sale will generate over \$2 million that would enhance the Electric Utility reserve.

Council Member Hitchcock stated she was not in support of this sale because the land may be needed for future expansion of the Electric Utility building and further expressed concern that land continues to be purchased by the City at the highest price yet is sold at the lowest price.

Mayor Mounce also expressed opposition to this proposal, stating that she believed the entire property should be sold (including the two acres on the south side).

MOTION / VOTE:

The City Council, on motion of Council Member Johnson, Hansen second, adopted Resolution No. 2008-61 authorizing the City Manager to execute \$2.15 million purchase and sale agreement for 9.09-acre Electric Utility property located at 500 South Guild Avenue to GG Land Group LLC. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, and Katzakian

Noes: Council Members – Hitchcock and Mayor Mounce

Absent: Council Members – None

- K-6 “Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$115,622.37)”

MOTION / VOTE:

The City Council, on motion of Council Member Johnson, Hitchcock second, unanimously approved the expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$115,564.75 (original recommended amount less \$57.62 to Folger Levin & Kahn), as detailed below:

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Water Acct. Amount
8001	107537	Feb-08	General Advice	\$ 57.62
8008	107538	Feb-08	City of Lodi v. Envision	\$ 91,847.75
	19953	Feb-08	Dole, Coalwell, Clark (outside counsel)	\$ 849.00
	133575	Feb-08	Hemming Morse, Inc.	\$ 15,691.25
Total				\$108,445.62

MISCELLANEOUS

Invoice No.	Date	Description	Water Acct. Amount
20075436	1/24/2008	Legalink, Inc.	\$ 1,327.50
20075740	1/25/2008	Legalink, Inc.	\$ 1,433.75
20076164	2/12/2008	Legalink, Inc.	\$ 1,327.50
20076233	2/13/2008	Legalink, Inc.	\$ 1,388.00
1100048452	1/31/2008	JAMS/Hartford v. City of Lodi	\$ 1,700.00
Total			\$ 7,176.75

L. ORDINANCES

L-1 Following reading of the title of Ordinance No. 1809 entitled, "An Uncodified Ordinance of the City Council of the City of Lodi, Repealing Ordinance 847 in Its Entirety Relating to a Specific Plan for Lower Sacramento Road from West Lodi Avenue to West Turner Road," having been introduced at a regular meeting of the Lodi City Council held March 19, 2008, the City Council, on motion of Mayor Pro Tempore Hansen, Johnson second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Johnson, Katzakian, and
Mayor Mounce

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – None

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:26 p.m.

ATTEST:

Jennifer M. Perrin
Deputy City Clerk