

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, JUNE 18, 2008**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of June 18, 2008, was called to order by Mayor Pro Tempore Hansen at 6:04 p.m.

Present: Council Members – Hansen, Hitchcock, Johnson, Katzakian [except Item C-2 (d)], and Mayor Mounce (arrived at 6:30 p.m.)

Absent: Council Members – None

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

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Hilda Rodriguez on Behalf of Her Minor Daughter, Karen D. Rodriguez, Against City of Lodi Based on Personal Injury
- b) Actual Litigation: Government Code §54956.9; One Application; *Ermon Harris v. City of Lodi*; WCAB Case Number STK195536 – 11/10/03
- c) Actual Litigation: Government Code §54956.9(a); One Case; *Garza v. City of Lodi, et al.*, San Joaquin County Superior Court, Case No. CV026299
- d) Actual Litigation: Government Code §54956.9(a); One Case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al.*, United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

C-3 ADJOURN TO CLOSED SESSION

At 6:04 p.m., Mayor Pro Tempore Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:35 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:00 p.m., Mayor Mounce reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Items C-2 (a) and C-2 (b), settlement direction was given.

Item C-2 (c) was not discussed.

In regard to Item C-2 (d), Council accepted the settlement offer of \$50,000 from United Dry Cleaners and further approved the dismissal of eight parties (i.e. Lodi Avenue Centers Limited Partnership, Tokay Foundry, Robert Spiekerman, Lodi Unified School District, Dolores Grace, Louverna Harrison, and Siu Yin Kong) in the Western and Northern Plumes, thereby concluding the PCE/TCE litigation efforts.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of June 18, 2008, was called to order by Mayor Mounce at 7:00 p.m.

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

Absent: Council Members – None

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

B. INVOCATION

The invocation was given by Pastor Steve Newman, First Baptist Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Mounce.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Fire Chief Mike Pretz presented a brief video from the California Fire Foundation on fire safety, which was created with the assistance of Lodi firefighters. Chief Pretz further presented the Joint Apprenticeship Committee plaques to the following members of the Lodi Fire Department:

Captain Timothy Thalken  
Engineer Christopher Allen  
Engineer Steven Bender  
Engineer Michael Gold  
Engineer James McClain  
Engineer Oscar Picazo  
Fire Fighter II Robert Bussman  
Fire Fighter II Trevor Lambert  
Fire Fighter II Craig Mintz  
Fire Fighter II Timothy Ortegel

D-2 Proclamations – None

D-3 (a) Mayor Mounce presented a Certificate of Recognition to City employee Jesse Barnett, representing the American Federation of State, County, and Municipal Employees Local #146, in appreciation for its alley cleanup efforts.

D-3 (b) Keith Abrams and members of the 2008 Leadership Lodi class presented information on this year's class project, "Hope Harbor: Help Brighten Their Way," which seeks to secure funds and donations to refurbish Hope Harbor at the Salvation Army, the only emergency shelter for homeless women and their children serving the Lodi community. Donations toward the project will provide bed and bath items; improve the playroom, reading, computer, and entertainment areas; and renovate living areas with new paint and window treatments. Donations may be in the form of money or needed supplies.

---

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:

E-1 Claims were approved in the amount of \$5,440,761.01.

E-2 The minutes of June 3, 2008 (Shirtsleeve Session), June 4, 2008 (Regular Meeting), and June 10, 2008 (Shirtsleeve Session) were approved as written.

E-3 Accepted the quarterly report of the City of Lodi pooled money investments as required by Senate Bill 564 and the City of Lodi Investment Policy.

E-4 Adopted Resolution No. 2008-106 authorizing the City Manager and Budget Manager to act as signers on City of Lodi bank accounts with Farmers & Merchants Bank; and authorizing these individuals to execute the Corporate Authorization Resolution and Electronic Transfer Corporate Resolution.

E-5 Approved the specifications and authorized advertisement for bids for heating, ventilation, and air conditioning equipment for Lodi Public Library.

- E-6 Adopted Resolution No. 2008-107 awarding the purchase of 25,000 feet of #4/0 AWG 15kV underground cable to The Okonite Company, of San Ramon, CA, in the amount of \$59,935.94.
- E-7 Adopted Resolution No. 2008-108 approving one-year extension of lease of Maple Square, 2 East Lodi Avenue, for the period of July 1, 2008 to June 30, 2009, to Alcoholics Anonymous.
- E-8 Adopted Resolution No. 2008-109 authorizing the extension of agreement with Unifirst Corporation for rental and cleaning of uniforms for certain field and warehouse employees in the amount of \$21,000.
- E-9 Adopted Resolution No. 2008-110 approving the master lease agreement between the City of Lodi and Lodi Grape Festival and National Wine Show Association for use of various Festival ground facilities that will serve both indoor and outdoor recreational programs, which will run for the period July 1, 2008 to June 30, 2009, at a lease rate of \$25,000 per year.
- E-10 Adopted Resolution No. 2008-111 authorizing renewal of support agreement for electronic customer information billing system from Alliance Data Systems, of Dallas, TX, in the amount of \$62,456.62.
- E-11 Adopted Resolution No. 2008-112 rescinding Policy for Transit Services Outside of Regular Service Operations and adopting new Charter Policy in accordance with changes by the Federal Transit Administration regarding charter service.
- E-12 Approved waiver of conflict of interest for Meyers Nave's representation of Northern California Power Agency.
- E-13 Adopted Resolution No. 2008-113 authorizing the City Manager to execute Northern California Power Agency Letter of Agreement for long-term energy procurement services in the amount of \$40,832.

---

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Steve Nilssen presented a prepared statement (filed) regarding the Eilers Lane annual Fourth of July celebration, which has taken place every year since 1987. The Public Works Department denied this year's request for an encroachment permit to block off the street from Lower Sacramento Road on the east to Lilac Street on the west, and he requested that this matter be placed on the July 2 City Council agenda for approval to continue this annual event.

Mayor Mounce requested that the matter be placed on the next agenda.

- Esperanza Ortiz stated that, due to the new mobile food vendor requirements, she is no longer permitted to operate her taco truck business at her current location. Despite her attempts, she has been unsuccessful in finding a new site and requested Council permission to continue to operate at her present location.

In response to Mayor Mounce, Deputy City Manager Krueger stated that Community Improvement Manager Joseph Wood has communicated with Ms. Ortiz on a number of occasions.

Mayor Pro Tempore Hansen disclosed that he met with the City Manager and Mr. Wood regarding her issue, as well as visited the current site. He believed there was nothing that could be done to allow Ms. Ortiz to continue at that location because it does not comply with the code requirements relating to number of parking spaces, in addition to the fact that the owner does not want the operation on his property. He believed the only solution was to find an alternate location.

- Virginia Snyder, representing the homeless outreach program “Hand Up – Not a Hand Out,” requested that two items be placed on the July City Council agenda: 1) approval for Lawrence Park restroom facility to remain unlocked or permission for neighborhood volunteers to unlock the facility and 2) use of meeting room, table, and chairs at Hale Park for a drop-in and referral center, waiver of rent, and permission for Ms. Snyder to retain a key to the facility. Ms. Snyder hopes to have the referral center up and running in August.
- Cheryl Francis, co-chair of the homeless outreach program, spoke in support of the referral center, stating that the group has begun gathering referral items and would welcome further community information and referrals.

City Attorney Schwabauer advised that any public comments relating to Item K-1 (Redevelopment Plan for the Lodi Community Improvement Project) be heard under the “Comments by the Public on Non-Agenda Items” segment of the agenda, rather than under K-1. He explained that the Health and Safety Code requires Council to first consider the plan, notice the public hearing four weeks in advance, and respond to written comments at least seven days after the close of the public hearing. On May 28, Council closed the public hearing; therefore, the only action on Item K-1 is deliberation of Council and final vote. He cautioned that Council not reopen the public hearing as it could generate additional written comments, which would result in the seven-day waiting period, thereby prohibiting Council from taking action at this meeting.

In response to Mayor Mounce, Mr. Schwabauer stated that public comments received under Item K-1 could be interpreted as reopening the public hearing and he advised that Council instead hear said comments at this time.

- Barbara Flockhart spoke in opposition to the redevelopment plan, stating that Lodi created blight in its justification by deferring needed maintenance and also approved high-density zoning in that area. She believed that failure to properly address crime, blight, and neighborhood maintenance is souring people on growth and that most would rather support downtown redevelopment. Ms. Flockhart expressed concern with the level of debt that would be set by the Redevelopment Agency, which is to be paid back with interest, and with the lack of control the City may have 20 to 40 years down the line.
- Pat Patrick, president/chief executive officer of the Lodi District Chamber of Commerce, expressed support for the redevelopment plan, stating that four separate committees within the Chamber voted in favor of establishment of the plan, many of which are property and business owners within the zone. He believed opposition to the plan is motivated on the premise of mistrust of government, lack of understanding of the fundamentals, and fear. Mr. Patrick encouraged a 4-0 Council vote of approval and suggested that any member who votes no should offer an alternative option on funding these improvements, a majority of which are on the east side of Lodi.
- Chuck Easterling spoke in support of the redevelopment plan, stating that Lodi needs to keep more of its tax dollars in this community for improvement purposes. Mr. Easterling estimated that, if the redevelopment plan had been enacted in 2002, Lodi could have realized \$3 million to \$5 million in hard dollars by this time.

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

- Council Member Johnson stressed the significance of completing the PCE/TCE contamination lawsuit, which has been ongoing for the last eight to ten years. He complimented Council Member Hitchcock for having the strength in light of tremendous pressure to question the legal strategy and Mayor Pro Tempore Hansen for his steady participation in this lengthy legal battle. Mr. Johnson stated that the City is in the process of updating the General Plan, is looking forward to an enterprise zone, and may have redevelopment funds available for business expansion and attraction. He believed the City has not been aggressive in the past with incentives to attract and keep businesses in this community and he requested that the discussion of business attraction be placed on a future agenda.

- Mayor Mounce reported on her recent attendance at the League of California Cities Mayors and Council Members Institute. Session topics included water savings, gang violence prevention, and city stories. Ms. Mounce also presided over a session on training Council Members across the state and communicating city issues. Additionally, she reported on her attendance at the Central Valley League of California Cities meeting in Ripon, at which the current State budget was discussed and estimated to be approved in early August. Mayor Mounce further recognized the Lodi Police and Fire Departments for their handling of the recent two-alarm warehouse fire.

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

None.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Mounce called for the public hearing to consider resolution adopting Final Engineer's Annual Levy Report for Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, Fiscal Year 2008-09, and ordering the levy and collection of assessments.

Deputy City Manager Krueger briefly introduced the subject matter.

Senior Civil Engineer Sharon Welch reported that the purpose of the public hearing was to consider the resolution adopting the Final Engineer's Annual Levy Report for the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 for fiscal year 2008-09 and to order the levy and collection. The District formed in 2003 to provide ongoing maintenance and improvements for landscape and irrigation, masonry block walls, street parkway trees, and public park areas and includes 16 zones. The activities and levy amounts are described in the report prepared by the consultants and includes diagrams for the district showing the property and parcels in the district. The total assessment for fiscal year 2008-09 is \$191,272.92.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hansen, Mounce second, unanimously adopted Resolution No. 2008-114 adopting the Final Engineer's Annual Levy Report for Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, Fiscal Year 2008-09, and ordering the levy and collection of assessments.

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 Council Member Johnson, Hitchcock second, unanimously made the following appointments:

Lodi Arts Commission

Frances Benavidez	Term to expire July 1, 2009
Mark Hamilton	Term to expire July 1, 2011

- J-3 Miscellaneous

- a) The City Council, on motion of Mayor Mounce, Hansen second, unanimously accepted the cumulative Monthly Protocol Account Report through May 31, 2008.

K. REGULAR CALENDAR

K-1 "Introduce Ordinance Adopting the Redevelopment Plan for the Lodi Community Improvement Project and Adopt Related Resolutions, Including, but not Limited to, Certification of the Environmental Impact Report, by the Lodi Redevelopment Agency and City Council" *NOTE: Joint action of the Lodi City Council and Redevelopment Agency. This item is quasi-judicial and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31.*

Deputy City Manager Krueger briefly introduced the subject matter, and City Attorney Schwabauer described the five resolutions and one ordinance for Council consideration.

Due to a potential conflict of interest stemming from her ownership of real property in the proposed Project Area, Council Member Hitchcock abstained from discussion and voting on this matter and vacated her seat at the dais at 8:01 p.m.

In response to Mayor Pro Tempore Hansen, Mr. Schwabauer stated that the response to written comments is a requirement of the plan and that a response is mailed to each individual who commented.

Mayor Mounce presented the City Attorney and City Clerk with a letter (filed) requesting in writing the proper manner in which to handle the referendum process. She has repeatedly received inquiries from the public regarding the process primarily because those individuals feel they are not being given appropriate information from the City. Ms. Mounce disagreed with statements that no progress has been made on the east side of Lodi, stating she has seen a vast improvement in the area, and further pointed out that the downtown was revitalized without the use of a redevelopment agency. She was uncomfortable supporting this matter without it going to a vote of the people, particularly due to the significant amount of debt the City would incur.

In response to the Mayor, Mayor Pro Tempore Hansen stated that it is not the City Attorney's responsibility to provide direction to citizens on a referendum as it is against the City, whose interest he represents. He believed the City Attorney should not comply with the Mayor's request for written direction, to which Council Member Johnson concurred.

Mayor Pro Tempore Hansen believed that the redevelopment plan would be a huge benefit to the City and he pointed to other cities' accomplishments including construction of new streets and sidewalks, improvements of overhead to underground utilities, construction of affordable housing units, and grants and low-cost loans to households for maintenance and improvements. Redevelopment would also provide a funding source to address high-density zoning, the state of parks, lack of police officers, and improved recreational opportunities. Council has the option to use debt to fund these programs; it is not a requirement.

Mayor Mounce cautioned that redevelopment money is at risk of being taken by the State to balance its budget and reiterated that she is not against redevelopment on the whole; rather, she believed the citizens should be allowed to vote on the matter.

Council Member Johnson stated that he had an opportunity to talk to council members from other cities during a recent League conference and he received no negative comments from those who had a redevelopment plan in place. The vast majority expressed satisfaction with what has been accomplished with redevelopment.

MOTION #1 / VOTE:

The Redevelopment Agency of the City of Lodi, on motion of Member Johnson, Hansen second, adopted Resolution No. RDA2008-05 approving and certifying the Final Environmental Impact Report (EIR) for the Redevelopment Plan for the Lodi Community Improvement Project by the vote shown below:

Ayes: Members – Hansen, Johnson, and Katzakian  
Noes: Members – Chairperson Mounce  
Absent: Members – None  
Abstain: Members – Hitchcock

MOTION #2 / VOTE:

The City Council, on motion of Council Member Johnson, Hansen second, adopted Resolution No. 2008-115 approving and certifying the Final EIR for the Redevelopment Plan for the Lodi Community Improvement Project by the vote shown below:

Ayes: Council Members – Hansen, Johnson, and Katzakian  
Noes: Council Members – Mayor Mounce  
Absent: Council Members – None  
Abstain: Council Members – Hitchcock

MOTION #3 / VOTE:

The City Council, on motion of Council Member Johnson, Hansen second, adopted Resolution No. 2008-116 finding that the provision of low- and moderate-income housing outside the Project Area will be of benefit to the project by the vote shown below:

Ayes: Council Members – Hansen, Johnson, and Katzakian  
Noes: Council Members – Mayor Mounce  
Absent: Council Members – None  
Abstain: Council Members – Hitchcock

MOTION #4 / VOTE:

The Redevelopment Agency of the City of Lodi, on motion of Member Johnson, Katzakian second, adopted Resolution No. RDA2008-06 finding that the provision of low- and moderate-income housing outside the Project Area will be of benefit to the project by the vote shown below:

Ayes: Members – Hansen, Johnson, and Katzakian  
Noes: Members – Chairperson Mounce  
Absent: Members – None  
Abstain: Members – Hitchcock

MOTION #5 / VOTE:

The City Council, on motion of Council Member Johnson, Katzakian second, adopted Resolution No. 2008-117 adopting findings in response to written objections to adoption of the Redevelopment Plan for the Lodi Community Improvement Project by the vote shown below:

Ayes: Council Members – Hansen, Johnson, and Katzakian  
Noes: Council Members – Mayor Mounce  
Absent: Council Members – None  
Abstain: Council Members – Hitchcock

MOTION #6 / VOTE:

The City Council, on motion of Council Member Johnson, Katzakian second, introduced Ordinance No. 1812 approving and adopting the Redevelopment Plan for the Lodi Community Improvement Project. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, and Katzakian  
Noes: Council Members – Mayor Mounce  
Absent: Council Members – None  
Abstain: Council Members – Hitchcock

NOTE: Council Member Hitchcock returned to the dais at 8:21 p.m.

RECESS

At 8:21 p.m., Mayor Mounce called for a recess, and the City Council meeting reconvened at 8:37 p.m.

K. REGULAR CALENDAR (Continued)

- K-2 "Adopt Resolution Awarding Contract for Fixed Route, Paratransit, and Demand Response Operations for Fiscal Years 2008-09 to 2011-12 to MV Transportation, Inc., of Fairfield (\$1,912,153 for Fiscal Year 2008-09)"

Deputy City Manager Krueger introduced the subject matter, stating that two proposals were received, one from MV Transportation, Inc., and one from Veolia Transportation, Inc., and that staff recommendation is to award the four-year contract with 2 one-year renewal options to MV Transportation.

Transportation Manager Tiffani Fink reported that the current contract is with MV Transportation, which was awarded in May 2003 and is due to expire shortly. The request for proposal was sent to each provider, and a pre-proposal conference was held with five interested agencies. Three bids were received on April 23, one of which was determined to be non-responsive and incomplete, and a review committee made up of City staff and two outside representatives evaluated the two bids. The new contract term is for four years with 2 one-year options to renew and includes enhancements such as fixed-route software, additional Americans with Disabilities Act service and reporting, GPS vehicle locating systems, and increased maintenance and cleaning. Due to the ability of MV Transportation to perform the requirements as well as its insurance coverage, safety record, and staff retention, the review committee unanimously recommended the contract be awarded to MV Transportation.

In response to Mayor Pro Tempore Hansen, Ms. Fink stated that it would be the City's option to renew the one-year extensions and the bid package included those costs. In regard to liability insurance, Ms. Fink explained that bidders were provided the City's past financial costs and, because the contractor would pay 50% of the City's premiums in the insurance pool, those costs are fairly consistent.

Vincent Contino, transit driver with San Joaquin Regional Transit District (SJRTD), stated that SJRTD is a non-profit organization and its profits cycle back into public transportation. He stated that SJRTD submitted the bid that was considered non-responsive and he believed it was in the best interest of the City to reopen and consider its bid before awarding the contract to MV Transportation. He believed that SJRTD was not provided ample assistance from the City in completing the forms in the request for proposals and stated that MV Transportation employees could benefit from SJRTD providing the service as they could become full-time employees with benefits and retirement. The resources of SJRTD would provide better service to and improved routes for the Lodi community.

Mark Fairbanks, transit superintendent for County operations for SJRTD, also requested that Council consider re-bidding this contract on the basis that he believed all parties were not given a fair and equal opportunity in the process. On the day bids were due, a new SJRTD employee submitted the bid at precisely 11 a.m., which was accepted by the City. He believed the City ultimately rejected the bid because it was not in a sealed envelope as required. He questioned why the rejected bid was retained by the City and reviewed further by City staff, resulting in additional issues brought forward regarding the bid. Mr. Fairbanks believed that SJRTD would be responsive to the City's needs and pointed to the fact that its ridership has increased by 30%.

Sandra Crivello, administrative assistant for SJRTD, confirmed that she submitted the original proposal to the City by the 11 a.m. deadline and that she informed the Public Works employee that the required remaining binders would be delivered shortly.



Gene Davenport, representing the San Joaquin Central Valley Labor Council, spoke in support of reopening the bid process, stating that the request for proposals process in this case was flawed and that the City should have provided further assistance to bidders.

Jay Jeter, regional vice president of MV Transportation, Inc., pointed out that the request for proposals required that sealed proposals be received no later than 11 a.m. on April 23 and that one original and seven copies be provided to the City. All providers had nearly two months to file the information with the City in a timely manner. In response to reports that MV Transportation employees want the process reopened, he stated that an agreement with the local union has been reached and there is overwhelming support from the drivers for this contract. He believed the process was a fair and equitable one.

In response to Council Member Hitchcock, Ms. Fink stated that SJRTD submitted one binder, rather than seven as required, which was not in a sealed envelope. The proposal was received by staff at the Public Works counter and given to the purchasing officer to be opened at the bid opening. At that time, staff consulted with the City Attorney on whether or not it could be accepted based on those two issues. At a later date, the proposal was reviewed and found to be insufficient for the following reasons: no cost proposal, no board authorization, no federal forms, proposal did not include GPS, and the financial and cash flow statements were not included.

City Attorney Schwabauer added that the bid was rejected for all of these reasons, some of which were determined after the bid opening. Staff merely reviewed the bid proposal further due to the fact that SJRTD continued to question the reason for rejection, and it was determined that the proposal was non-responsive for all of these reasons. The City cannot give unfair competitive advantage to those who do not comply with the process, and the bid proposal was retained by the City as evidence of what was submitted.

In response to Council Member Hitchcock, Ms. Fink stated that the day after the deadline another transit agency attempted to deliver a bid; however, it was not accepted, was refused delivery, and returned to sender. The agency acknowledged that it missed the deadline.

Mayor Pro Tempore Hansen believed that the City was clear on the requirements and that staff went above and beyond to review the proposal, which did not comply from the start. He believed the process followed protocol and supported the staff recommendation.

MOTION #1:

Mayor Mounce made a motion to approve the four-year contract, without the 2 one-year options to renew.

Council Member Hitchcock seconded the motion due to the fact that SJRTD is a non-profit organization and could provide a good service to the City of Lodi.

DISCUSSION:

Ms. Fink clarified that the proposal is a four-year base contract and that the City has the option to extend the contract if it so desires.

Further discussion ensued among Council Member Johnson, Council Member Hitchcock, and City Attorney Schwabauer regarding language in the four-year contract, renewal options, automatic extension versus Council approved, expectation by contractor of a four-year versus six-year contract, and 30-day notice to extend or re-bid.

MOTION WITHDRAWN:

Council Member Hitchcock withdrew her second; Mayor Mounce withdrew her motion.

MOTION #2 / VOTE:

The City Council, on motion of Council Member Hitchcock, Johnson second, adopted Resolution No. 2008-118 awarding contract for fixed route, paratransit, and demand response operations for fiscal years 2008-09 to 2011-12 to MV Transportation, Inc., of Fairfield, in the amount of \$1,912,153 for fiscal year 2008-09. The motion carried by the following vote:

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

Noes: Council Members – Mayor Mounce

Absent: Council Members – None

In response to Mayor Mounce, Mr. Schwabauer confirmed that it would take affirmative action by the City Council to extend the contract for the additional years.

Gene Davenport suggested that Council look into the fact that staff refused to provide advice and guidance on preparing the request for proposals.

- K-3 “Adopt Resolution Authorizing the City Manager to Notify the U.S. Department of Housing and Urban Development (HUD) and San Joaquin County of the City of Lodi’s Intent to Discontinue Participation in the Urban County for the 2009-2011 Period and Intent to Receive Community Development Block Grant Funds Directly from HUD as a Metropolitan City”

Community Improvement Manager Joseph Wood reported that Lodi currently receives Federal Community Development Block Grant (CDBG) and HOME Program funding through a cooperative agreement with San Joaquin County since 1985. As a U.S. Department of Housing and Urban Development (HUD) grantee, the County provides oversight of grant activities. Because Lodi has a population in excess of 50,000, it qualifies as an entitlement city. The cooperative agreement with the County expires September 30, 2008, and the City could either remain with the Urban County or pursue entitlement status. The City would most likely receive the same or slightly larger amount in CDBG funding based on what was received this year, and staff estimates Lodi would be allocated approximately \$734,000. In the past, staff provided reports to the County; however, as an entitlement city, Lodi would continue to prepare the reports, but submit them directly to HUD. Any additional costs incurred would be covered by the additional program income as an entitlement city. In regard to HOME Program funding, Lodi does not qualify as an entitlement city. Lodi could request that the County form a consortium, which would reform the Urban County and allow the City to continue to receive HOME Program funding; however, the County is unwilling to pursue this option. The alternative is to apply directly to the State of California. The City currently receives roughly \$250,000 a year, which fluctuates from year to year and is split between projects and housing assistance programs. By applying through the State, the City would have the ability to seek funding on both issues; although, it is a competitive process among other cities and agencies. If successful, the City could receive \$600,000 to \$800,000 for down payment assistance programs or up to \$5 million for specific affordable housing projects. Staff is familiar with the State program and believes the City would score competitively. The County would continue to collect program income on CDBG and HOME Programs and is willing to reach an agreement regarding the transfer of Lodi’s program income from the Urban County to the new entitlement. A majority of the income is dedicated toward the Railroad Avenue housing project, and there remains a substantial amount of funding and loans in place that continue to generate program income. The current loan portfolio is \$3.1 million. Mr. Wood reviewed the proposed calendar for the process, stating that meetings with HUD on the entitlement process would begin in late 2008 and that all CDBG activities funded by the County would be closed out by July 1, 2010.

In response to Council Member Johnson, Mr. Wood confirmed that the funds committed toward the Railroad Avenue project are currently available for the project and will remain so. Becoming an entitlement city will enable the City to pursue additional and greater amounts of funding for affordable housing projects.

Council Member Hitchcock expressed concern about moving from an assured funding source to one that is competitive and not a guarantee. In looking at other cities' experiences, some years they receive funding and in others they receive no allocation, and she did not believe Lodi could be competitive against some of the other communities. The consortium was put in place for the County to ensure cities capture their fair share of dollars, and she saw no benefit to leaving it to compete for the funding. Ms. Hitchcock stated she would not support the request.

In response to Mayor Pro Tempore Hansen, Mr. Wood confirmed that the County currently captures 6% of the City's allocation for program administration, but as an entitlement city, Lodi would receive the full funding amount, including the 6%. Mayor Pro Tempore Hansen stated that, despite the risk, this opportunity could allow the City to bring in additional funds for affordable housing, which is sorely needed. He stated he would support the staff recommendation.

In response to Council Member Katzakian, Mr. Wood stated that funding amounts in the range of \$600,000 to \$800,000 are typically for program funding and the larger amounts are more project specific, such as for affordable housing. Mr. Katzakian stated that he would support the proposal.

In response to Council Member Johnson, Mr. Wood confirmed that this is a three-year cycle, after which the City could request to return to the Urban County. Mr. Wood stated that the City has a positive working relationship with the County and believed it would permit the City to return.

Mayor Mounce stated that she would support the recommendation due to the three-year option, stating that it would be the Council's responsibility to return to the County if the City were unsuccessful in receiving adequate funding. She requested that, at the conclusion of the three-year cycle, staff report to the Council on the City's success.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, adopted Resolution No. 2008-119 authorizing the City Manager to notify the U.S. Department of Housing and Urban Development (HUD) and San Joaquin County of the City of Lodi's intent to discontinue participation in the urban county for the 2009-2011 period and intent to receive Community Development Block Grant funds directly from HUD as a metropolitan city; and further directed staff to report to Council at the conclusion of the three-year cycle. The motion carried by the following vote:

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

Noes: Council Members – Hitchcock

Absent: Council Members – None

K-4 "Adopt Resolution Authorizing the City Manager to Execute a New Franchise Agreement with Central Valley Waste Services, Inc."

Deputy City Manager Krueger briefly introduced the subject, stating that staff recommendation is to approve the execution of a new franchise agreement for an eight-year period with one option to renew for another seven-year period.

Public Works Director Wally Sandelin reviewed the business points contained in the agreement, which include the following:

- Same weekly frequency and three-can system;
- Up to two additional green waste and recycling carts at no cost;
- One free voucher and one reduced-price dump day event;
- Annual neighborhood curbside cleanup;

- Quarterly electronic waste collection events held in Lodi;
- City to continue to charge \$20,078.75 per year for Central Valley Waste Services (CVWS) for billing customers;
- Billing charge will annually increase by 80% of the Consumer Price Index (CPI) increase;
- City to sweep streets, collect trash from public receptacles, pick up leaves and dump said material at transfer station at no cost to the City;
- CVWS to pay City annual street cleaning and maintenance fee of \$541,500 (annual adjustment of 80% of the CPI);
- Annual collection rate at 80% of CPI;
- Date of rate change to be April 1;
- Compactor rates revised; and
- Contract term of eight years, beginning January 1, 2009, with one CVWS option to renew for additional seven years.

Mr. Sandelin reviewed the annual financial enhancements to the City, which total \$670,700. There would be no impact to the existing rate structure, future increases would remain at 80% of the CPI, and other adjustments cannot be backed into the rates.

Steve Haley, maintenance worker/street sweeper with the Public Works Department, expressed support for the proposed contract and thanked the City Council, staff, and Thom Sanchez with CVWS for reconsidering certain issues in the original proposal. He believed that keeping street sweeping in house was a greater benefit to the community.

Pat Patrick, president/chief executive officer of the Lodi District Chamber of Commerce, expressed support for the proposed contract, stating that CVWS provides excellent service, as well as reinvests a significant amount of money back into the community.

Mayor Mounce expressed support for the contract and recognized the fact that the concerned parties worked together to reach a workable solution.

Mayor Pro Tempore Hansen expressed support for the proposed contract and stated that he was pleased to see the increased franchise fee, which will remain in the streets department and provide needed additional funding.

In response to Mayor Pro Tempore Hansen, Mr. Sandelin assured that staff has increased its attention in the downtown area and added that he will be returning to Council in the near future with a proposal regarding downtown maintenance.

Council Member Hitchcock stated she would support the proposal and recognized CVWS for being an excellent service provider to this community.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously adopted Resolution No. 2008-120 authorizing the City Manager to execute a new franchise agreement with Central Valley Waste Services, Inc.

Thom Sanchez, representing CVWS, thanked the City Council for its support.

K-5 “Consider Designating Council Observer for General Services and Maintenance & Operators Labor Negotiations”

Deputy City Manager Krueger briefly introduced the subject matter, stating that Council asked that this item be placed on the agenda to designate one Council Member to participate as an observer in the upcoming labor negotiations process with General Services and Maintenance and Operators, which will begin later this month.

Council Member Hitchcock stated she did not initially support this proposal; however, after attending a human resources conference through the League of California Cities, she has reconsidered her stance. Years ago, this was not recommended, but since much has changed in terms of negotiations, this is currently the standard. She believed having a Council Member observer in attendance would be beneficial to both sides and suggested that the observer not be limited to just one individual.

Council Member Johnson stated that he initially proposed this due to the fact that relations between the City and one particular bargaining group were strained and that comments were made that Council is not receiving all of the information. Mr. Johnson stated he has the time available to attend negotiations, take notes, and share the information with Council and he hoped this would solidify the feeling of trust.

Mayor Pro Tempore Hansen expressed support for Council Member Johnson representing the Council as an observer in these negotiations, stating he believed it should be one Council Member participating the entire time. If others are interested, there will be additional opportunities to participate with other bargaining groups.

Mayor Mounce stated she had also offered her time to serve as the observer, but stated she would support the designation of Council Member Johnson.

**MOTION / VOTE:**

The City Council, on motion of Mayor Pro Tempore Hansen, Mounce second, unanimously designated Council Member Johnson to serve as Council observer for General Services and Maintenance & Operators labor negotiations.

- K-6 “Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases Being Handled by Outside Counsel (\$13,114.37)”

City Attorney Schwabauer reviewed the subject expenses, as detailed in the staff report.

**MOTION / VOTE:**

The City Council, on motion of Mayor Pro Tempore Hansen, Hitchcock second, unanimously approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$13,114.37, as detailed below:

<b>Folger Levin &amp; Kahn - Invoices Distribution</b>				
Matter No.	Invoice No.	Date	Description	Water Acct.
8002	108681	03/01/08	People v. M&P Investments	\$ 8,023.76
	133871	04/30/08	Hemming Morse re: City of Lodi v. Donovan	\$ 4,965.75
<b>Total</b>				<b>\$ 12,989.51</b>

<b>Kronick Moskovitz Tiedemann &amp; Girard - Invoices Distribution</b>					
Matter No.	Invoice No.	Date	Description	100351.7323	Water Acct.
11233.026	239191	05/25/08	Lodi First v. City of Lodi	\$ 45.40	
11233.030	239191	05/25/08	Water Supply Issues – Not PCE Related		\$ 79.46
Subtotals				<u>\$ 45.40</u>	<u>\$ 79.46</u>

**Grand Total \$124.86**

L. **ORDINANCES**

None.

*Continued June 18, 2008*

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:11 p.m., in honor of Katherine Hamilton, daughter of City employee Janet Hamilton who passed away on June 6.

ATTEST:

Jennifer M. Perrin  
Deputy City Clerk