

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 3, 2007**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of October 3, 2007, was called to order by Mayor Johnson at 6:00 p.m.

Present: Council Members – Hansen, Hitchcock, Katzakian [excluding C-2(a)], Mounce, and Mayor Johnson

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) 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

b) Conference with Blair King, City Manager, Jim Krueger, Deputy City Manager, and Bill Avery (Acting Labor Negotiators), Regarding Lodi Police Officers Association Pursuant to Government Code §54957.6

c) Conference with Blair King, City Manager, and Jim Krueger, Deputy City Manager (Acting Labor Negotiators), Regarding Maintenance and Operators Unit Pursuant to Government Code §54957.6

C-3 ADJOURN TO CLOSED SESSION

At 6:00 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:09 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:11 p.m., Mayor Johnson reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), discussion was had and settlement direction was given.

In regard to Items C-2 (b) and C-2 (c), discussion was had and negotiating direction was given.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of October 3, 2007, was called to order by Mayor Johnson at 7:11 p.m.

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

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. INVOCATION

The invocation was given by Director Ken Owen, Christian Community Concerns.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Johnson.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Johnson presented a proclamation to Paula Grech, representing the San Joaquin County Women's Center – Lodi Office, proclaiming the month of October 2007 as "Domestic Violence Awareness Month" in the City of Lodi.

D-3 (a) Joe Price and Amanda Stevens with the Greater Lodi Area Youth Commission provided an update on the activities and accomplishments of the Commission.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Mounce, Hitchcock second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$2,292,791.05.

E-2 The minutes of September 18, 2007 (Shirtsleeve Session) and September 25, 2007 (Shirtsleeve Session) were approved as written.

E-3 Received quarterly report of purchases between \$5,000 and \$20,000.

E-4 Approved the plans and specifications and authorized advertisement for bids for Lodi Library Lighting Retrofit Project.

E-5 Authorized advertisement for bids for 25,000 feet of 1100 kcmil 15kV underground cable and 14 units of Lodi-48 primary vaults with covers.

E-6 Adopted Resolution No. 2007-194 awarding the purchase of padmounted liquid insulated vacuum switchgear and load/fault interrupters to Trayer Engineering Corporation, of San Francisco, CA, in the amount of \$105,776.42.

E-7 "Adopt Resolution Awarding Brokerage Services to Sell Surplus City-Owned Real Estate Properties to Coldwell Banker Commercial, the Duncan Company, Inc., of Woodbridge, CA" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

E-8 Approved Change Orders for the repair of two power transformers at Industrial Substation in the amount of \$27,431.

E-9 "Adopt Resolution Approving Improvement Deferral Agreement for 975 South Fairmont Avenue" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

E-10 "Status of San Joaquin County Consideration of an Armstrong Road Agricultural/Cluster Zoning Classification" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

E-11 Set public hearing for October 17, 2007, to consider adoption of the 2007 California Building Code, Mechanical Code, Electrical Code, Plumbing Code, and Fire Code with local amendments and revise Building Permit Fee Schedule 1A, along with fee increases for building, mechanical, plumbing, and electrical permits.

ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-7 "Adopt Resolution Awarding Brokerage Services to Sell Surplus City-Owned Real Estate Properties to Coldwell Banker Commercial, the Duncan Company, Inc., of Woodbridge, CA"

Mayor Johnson pulled this item for further discussion.

Mayor Johnson stated he would abstain from the matter and left the dais and room.

In response to Council Member Hitchcock, City Attorney Schwabauer confirmed there is no legal conflict of interest. He stated Mr. Johnson was never employed by the subject company; although, he was employed by another company, which was owned by the same individual who owns the subject company.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Katzakian second, adopted Resolution No. 2007-195 awarding brokerage services to sell surplus City-owned real estate properties to Coldwell Banker Commercial, the Duncan Company, Inc., of Woodbridge, CA. The motion carried by the following vote:

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

- E-9 "Adopt Resolution Approving Improvement Deferral Agreement for 975 South Fairmont Avenue"

Council Member Hitchcock pulled this item for further discussion.

In response to Council Member Hitchcock, Public Works Director Prima stated the Environmental Impact Report indicates traffic signal light requirements and peak hour traffic criteria have been met and staff has worked with Lodi Memorial Hospital staff regarding the same.

In response to Council Member Hitchcock, Mr. Prima confirmed there will be improvements on both the school and hospital sides for appearance purposes and it will take two years or more to complete the improvements.

In response to Mayor Johnson and Mayor Pro Tempore Mounce, Mr. King stated the item can be placed on the agenda for consideration by the 2 x 2 Committee.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously adopted Resolution No. 2007-196 approving the Improvement Deferral Agreement for 975 South Fairmont Avenue and authorizing the City Manager and City Clerk to execute the agreement on behalf of the City.

- E-10 "Status of San Joaquin County Consideration of an Armstrong Road Agricultural/Cluster Zoning Classification"

Council Member Hitchcock pulled this item for a presentation.

Community Development Director Hatch provided an overview of the status of the agricultural and cluster zoning classification as stated in the Council Communication and stated the item is to be considered at a future Board of Supervisors meeting, which has not occurred yet. Mr. King stated there may be some support for the designation area of AL-5 and staff will be verifying that theory as quickly as it can for the record.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously received the status report of San Joaquin County consideration of an Armstrong Road Agricultural/Cluster Zoning Classification.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Georgia Potts spoke of her concerns regarding the clean-up of graffiti along the brick wall on Lower Sacramento and Turner Road. Community Improvement Manager Wood stated staff is continuing to work on this site and others with respect to removing the remaining graffiti shadow after the initial clean-up.

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

- Council Member Hansen reported on the status of the efforts regarding Highway 12, the town hall meeting scheduled at Hutchins Street Square for October 9, 2007, at 7:00 p.m., attendance at the annual Northern California Power Agency conference, AB 32 legislation regarding greenhouse gases, and the Modesto Irrigation District subscription to the new Lodi Plant.
- Mayor Pro Tempore Mounce commended the Youth Commission and clarified that the Fall Formal bids will be available at Carnegie Forum on October 14, 2007. She also commended former Council Member Pinkerton for his dedicated service to the City.
- Council Member Hitchcock reported on her attendance at the San Joaquin Council of Governments and the Local Agency Formation Commission meetings and briefly discussed the expansion of freeways for traffic increases and moving forward with specifics regarding community separators.
- Mayor Johnson commended former Council Member Pinkerton for his dedicated service to the City and also commended Delta College on its successful event and outreach efforts in connection with the new proposed campus.

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

- City Manager King stated staff is working on replacing a transmission line to the White Slough facility as quickly as possible. He stated notification regarding the same was provided to the property owners in the vicinity.

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 Johnson called for the public hearing to consider Lodi Memorial Hospital regarding issuance of tax-exempt obligations and approval of the California Statewide Community Development Authority's issuance of indebtedness to construct a new Lodi Memorial Hospital project.

City Manager King briefly introduced the subject matter, stating the City has no financial obligation in the matter and the public hearing is a procedural requirement for the hospital to obtain non-taxable conduit financing. Deputy City Manager Krueger confirmed the same and added that the financing is through the California Communities Joint Powers Authority (JPA).

Michael LaPierre, representing the California Statewide Communities Development Authority, provided an overview of the JPA and specifically discussed the administrative process associated with the public hearing, requirements under the Internal Revenue Code, and debt obligations of the JPA.

In response to Mayor Johnson, Mr. Krueger stated the public hearing and hospital financing have no affect on the City's bond rating.

Discussion ensued between Mayor Johnson, Council Member Hansen, and City Manager King regarding the hospital's ability to obtain non-taxable financing without the City's participation, the ability of employees to use Lodi Memorial Hospital instead of Stockton hospitals, the status of the insurance dispute with Blue Cross, and the similar issue with the school district.

Roy Kreutner, Chief Financial Officer for Lodi Memorial Hospital, stated the school district has gone with Pacificare effective October 1, 2007, and the hospital was unable to reach an agreement with Blue Cross.

Council Member Hitchcock stated the employee issue does not apply to the matter before the Council. She also stated the non-taxable financing is good for the hospital and community. Mr. King stated he discussed with Mr. Harrington the possibility of a local PPO for the employees through the hospital directly.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously adopted Resolution No. 2007-197 approving the issuance of the California Statewide Communities Development Authority insured revenue bonds (Lodi Memorial Hospital) in one or more series in an aggregate principal amount not to exceed \$150,000,000 for the purpose of financing and refinancing the acquisition, construction, equipping, and improvement of certain health care facilities owned and operated by Lodi Memorial Hospital Association, Inc. and other matters relating thereto.

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 Hansen, Mounce second, unanimously made the following appointment:

Lodi Improvement Committee

Magda Simpson Term to expire March 1, 2008

J-3 Miscellaneous – None

RECESS

At 8:17 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 8:27 p.m.

K. REGULAR CALENDAR

K-1 "Authorize the City Manager to Enter into Negotiations with PAM Companies to Develop an Affordable Housing Project"

City Manager King briefly introduced the subject matter.

Community Improvement Manager Wood provided a PowerPoint presentation regarding the Railroad Avenue affordable housing project. Mr. Wood specifically discussed the history of the site and the project, response to request for proposals, review of proposals, process of site visits, Committee review and discussions, resubmitted proposals, Committee recommendations, and the process of selecting a developer.

In response to Mayor Pro Tempore Mounce, Fire Chief Pretz stated the Fire Department will require proper access as part of the development of the proposed project.

In response to Mayor Pro Tempore Mounce, Public Works Director Prima stated they are required to maintain the walkthrough for the crosswalk near the Calaveras school crossing, but they are not required to keep right-of-way access unless the grant deed specifies otherwise.

In response to Mayor Pro Tempore Mounce, Mr. Wood stated staff will provide the crime statistic information of the surrounding area available to the Council.

In response to Mayor Pro Tempore Mounce, Community Development Director Hatch stated there will be a Phase 2 environmental study and remediation will be considered if contamination is found.

In response to Council Member Hitchcock, Community Development Director Hatch stated the rent chart does not include Section 8 application, under which (regardless of income) the maximum rent would be 30% of the income with the balance picked up by the Department of Housing and Urban Development subsidies.

In response to Council Member Hitchcock, Mr. Hatch stated the developer is looking for capital costs to build the project and on the operations side will be charging individuals and/or obtaining assistance from federal government subsidies.

In response to Council Member Hitchcock, Ed Sido, Executive Officer of the San Joaquin County Housing Authority, stated qualification is for the lifetime of an individual so long as needed and the program itself will likely be funded by the federal government for some time to come.

Mr. Wood provided an overview of the Lodi Police Department reported crimes in the area between Washington Street, Lodi Avenue, Highway 99, and Lockeford Street.

In response to Council Member Hitchcock, Mr. Hatch stated he is not sure why Visionary Home Builders did not look at Section 8 housing possibilities and work with the Housing Authority regarding the same.

PUBLIC COMMENTS:

- Catherine Brown spoke of her concerns regarding the value of the property on Railroad Avenue. Mr. Wood stated the initial appraisal for land value was \$1.5 million and may be worth more now since the land will be identified as residential. Mr. Hatch stated the City subsidies are maxed out at \$1.2 million.
- Warren Potts spoke of his concerns regarding the location of the proposed project and the proximity of services within a walking area and bus transportation.
- Virginia Snyder spoke in favor of the proposed project, stating it will trigger overall improvements in the area and expressed her concern regarding a walkway going through the project.
- Mike Boettger of PAM Companies specifically discussed fire access with knock-down gates, tax credit application for infill properties, proximity from a bus stop and park, market on Cherokee Lane, Smart and Final store, LOEL Center, pharmacy, points to compete in the tax credit arena, exclusive feasibility study agreement, entitlement application, and the need for a \$150,000 deposit.

In response to Council Member Hitchcock, Mr. Hatch stated the next phase of the project will include application for entitlement, tax credits, and Section 8.

In response to Council Member Hansen, Mr. King stated the authorization is to enter into negotiations and final approval would be brought back to the Council. Mr. King also discussed the exclusive negotiation process and conditions, site designs, the reasonableness of the ten percent deposit amount in the industry, and obtaining site control prior to requiring the deposit.

City Attorney Schwabauer stated the Council can proceed with entering into the agreement with certain modifications, including the specific deposit amount and performance information, to be determined at a later date by the City Manager, and then brought back to Council.

In response to Mayor Johnson, Mr. Hatch stated with Phase 1 and 2 the City is up to approximately \$20,000 with staff time and design.

In response to Mayor Pro Tempore Mounce, Mr. Hatch stated the building on Rush Street can be raised when permits are taken out and, with a suggested 18-month negotiation period, the project should be built over 2 ½ years.

Mayor Pro Tempore Mounce stated she cannot support the recommendation because she does not believe it is the right location.

MOTION/ VOTE:

The City Council, on motion of Council Member Hansen, Hitchcock second, adopted Resolution No. 2007-198 authorizing the City Manager to execute an exclusive feasibility study period agreement with PAM Development, Inc. for Railroad Avenue senior housing project with the addendums as provided by the City Attorney. The motion carried by the following vote:

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

RECESS

At 9:54 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 9:59 p.m.

K-2 “Update from the Grape Bowl Ad Hoc Committee and Save the Grape Bowl Committee”

City Manager King and Interim Parks and Recreation Director Dutra briefly introduced the subject matter.

Committee Member Jack Fiori provided a presentation on the efforts of the Save the Grape Bowl Committee and specifically discussed the history of the committee, fundraising efforts, 501(c)(3) status, the Sacramento Foundation umbrella, fundraising total to date of \$108,000, involvement of the Board of Supervisors, possibility of an extension of time, the economy, and naming options associated with a large donation.

In response to Mayor Pro Tempore Mounce, Mr. Fiori stated the Committee is working with Lodi-Tokay students and the public at large.

Council Member Hansen suggested the Committee look at holding an event similar to the Hutchins Street Square Field and Fair Day. Mr. Fiori stated the Committee is looking at a variety of fundraising options and will speak with Ken Vogel next week regarding an extension. City Manager King stated he believes the Board will be amicable to the idea of an extension and will follow-up.

Richard Dean provided a presentation regarding the Ad Hoc Committee efforts and status. Specific topics of discussion included the make-up of the Committee members and staff, design concept, the Stockton street entrance, the approximate cost of \$6 million to \$8 million, Americans with Disabilities Act compliance, utilization of the facility, various funding options, Committee recommendations, extension for agreements, Community Development Block Grant funding, redevelopment application, partnership with the school district, mitigation fees, and the need for the Committee to continue.

In response to the discussion about mitigation fees and/or developer fees, City Manager King provided an overview of the types of development fees, including development impact fees for additions, park land fees for expansion, and land mitigation fees identified in environmental documentation and development agreements.

A brief discussion ensued between Mayor Johnson, Mayor Pro Tempore Mounce, and Council Member Hitchcock regarding funding and utilizing the Grape Bowl so as to provide ongoing maintenance and operation costs for the same.

MOTION / VOTE:

There was no Council action taken on this matter.

- K-3 "Confirm Previously Approved Report, Adopt a Resolution to Continue the Assessment and Programs of the Lodi Tourism Business Improvement District (LTBID), and Set a Public Hearing for October 17, 2007"

City Manager King provided a brief overview of the process associated with submitting an annual report, levying the assessment, and conducting a public hearing.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Katzakian second, unanimously confirmed the previously approved report, adopted Resolution No. 2007-199 to continue the assessment and programs of the Lodi Tourism Business Improvement District, and set a public hearing for October 17, 2007.

- K-4 "Designation of a Member of the City Council to Participate in the Rating Agency Presentation for the Wastewater System Financing"

City Manager King provided a brief overview of the proposed presentation to the rating agencies scheduled for October 12, 2007, and requested a Council Member be appointed to participate in the same.

In response to Mayor Johnson, Mr. Krueger stated the representatives from Standard & Poor's are not the same, but the representatives from Fitch may be.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Hansen second, unanimously designated Mayor Johnson to participate in the rating agency (Fitch Ratings and Standard & Poor's) presentation on October 12 in San Francisco for the wastewater system financing.

- K-5 "Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel (\$90,187.15)"

MOTION / VOTE:

The City Council, on motion of Mayor Johnson, Mounce second, unanimously approved the 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 \$90,187.15, as detailed below:

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Water Acct. Amount
8003	103985	08/31/07	Hartford Insurance Coverage Litigation	\$200,128.01
			Contingency Fee Amount Savings	-144,036.00
8008	103986	08/31/07	City of Lodi v. Envision Law Group	\$ 10,003.60
	15043	06-07/1/07	PES Environmental, Inc. (Keith Obrien)	\$ 8,268.44
	15326	07/30/07 - 09/02/07	PES Environmental, Inc. (Keith Obrien)	\$ 8,983.25
		08/04/07 - 09/14/07	George Tchobanoglous, Ph.D.	\$ 4,304.10
	170907a	08/31/07 - 09/14/07	Dr. Jim A. Field	\$ 1,125.00
Total				\$ 88,776.40

MISCELLANEOUS

Invoice No.	Date	Description	Water Acct. Amount
	08/08/07	Patrick Hassey Deposition Expenses	\$ 18.00
3044	8/7/2007	Benchmark Video	\$ 1,392.75
Total			\$ 1,410.75

L. ORDINANCES

L-1 Following reading of the title of Ordinance No. 1802 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 13 – Public Services – Adding Section 13.20.185, ‘Section CSS – California Solar Initiative Surcharge,'" having been introduced at a regular meeting of the Lodi City Council held September 19, 2007, the City Council, on motion of Mayor Johnson, Hansen second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

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

L-2 Following reading of the title of Ordinance No. 1803 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.12, ‘Sewer Service,’ by Repealing and Reenacting Section 13.12.150 Relating to Connections Outside City," having been introduced at a regular meeting of the Lodi City Council held September 19, 2007, the City Council, on motion of Mayor Pro Tempore Mounce, Katzakian second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hansen, Katzakian, Mounce, and Mayor Johnson
 Noes: Council Members – Hitchcock
 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 10:59 p.m.

ATTEST:

Randi Johl
 City Clerk