

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, NOVEMBER 7, 2007**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of November 7, 2007, was called to order by Mayor Johnson at 5:32 p.m.

Present: Council Members – Hansen, Hitchcock, Katzakian [with the exception of C-2 (a) and C-2 (b)], Mounce, and Mayor Johnson

Absent: Council Members – None

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

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) Actual Litigation: Government Code §54956.9(a); One Case; *City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al.*, San Francisco Superior Court, Case No. CGC-05-441976
- c) Conference with Blair King, City Manager, and Jim Krueger, Deputy City Manager (Acting Labor Negotiators), Regarding Lodi Professional Firefighters, Lodi Police Officers Association, and Fire Mid-Managers Pursuant to Government Code §54957.6
- d) Review of Council Appointee – City Clerk (Government Code §54957)

C-3 ADJOURN TO CLOSED SESSION

At 5:32 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:00 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:04 p.m., Mayor Johnson reconvened the City Council meeting, and City Attorney Schwabauer disclosed that discussion and direction was given in regard to Items C-2 (a), C-2 (b), and C-2 (c). In regard to Item C-2 (d), Mayor Johnson disclosed that the initial phase of the review for a Council Appointee took place and no reportable action was taken.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of November 7, 2007, was called to order by Mayor Johnson at 7:04 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 Deputy City Clerk Perrin

B. INVOCATION

The invocation was given by Dr. Clifford Donaldson, Lodi Community Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Johnson.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Mayor Johnson presented a Certificate of Appreciation to American Legion Commander, Richard Parnacott, in honor of Veterans Day, which is Sunday, November 11. Mr. Parnacott invited the public to attend its ceremony on Veterans Day at 11 a.m.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Mounce, Katzakian second, unanimously approved the following items hereinafter set forth:

E-1 Claims were approved in the amount of \$5,938,013.59.

E-2 The minutes of October 16, 2007 (Shirtsleeve Session), October 17, 2007 (Regular Meeting), October 23, 2007 (Shirtsleeve Session), and October 30, 2007 (Shirtsleeve Session) were approved as written.

E-3 Accepted the quarterly investment reports as required by law (Senate Bill 564).

E-4 Accepted the quarterly report of purchases between \$5,000 and \$20,000.

E-5 Received report of sale of surplus equipment.

E-6 Approved a request for proposals to replace and upgrade the existing Utility Supervisory Control and Data Acquisition (SCADA) system.

E-7 Adopted Resolution No. 2007-209 awarding the design and construction contract for Municipal Service Center Transit Vehicle Maintenance Facility Project to Diede Construction, of Woodbridge; authorizing the City Manager to execute change orders within the project budget amount of \$3,000,000; and appropriating \$400,000 for the project.

E-8 Adopted Resolution No. 2007-210 authorizing the City Manager to execute Memorandum of Understanding between City of Lodi and General Mills Cereals Properties, Inc., for the dedication of street easement, construction easement, and right of entry for widening of Lower Sacramento Road (Turner Road to Union Pacific Railroad).

E-9 Adopted Resolution No. 2007-211 authorizing submittal of a Safe Route to School Grant Application to California Department of Transportation and authorizing the City Manager to execute the grant application.

E-10 Adopted Resolution No. 2007-212 approving application for grant funds in the amount of \$15,000 from the State Resources Agency Environmental Enhancement and Mitigation Grant Program for tree purchase during the 2007-08 grant cycle.

E-11 Adopted Resolution No. 2007-213 authorizing the City Manager to execute an Amended and Restated Northern California Power Agency Joint Powers Agreement.

E-12 Authorized the City Manager to approve change orders for construction of the Killelea Substation Rehabilitation Project in a cumulative amount not to exceed \$250,000.

E-13 Adopted Resolution No. 2007-214 approving the Impact Mitigation Fee Program annual report for fiscal year 2006-07.

- E-14 Approved waiver of Conflict of Interest for Folger Levin & Kahn in representation of the State of California Department of Water Resources.
 - E-15 Adopted Resolution No. 2007-215 approving cost reimbursement contract with the Economic Development Association to develop an application for Enterprise Zone designation, and authorizing the City Manager to execute the contract, which will not exceed \$8,972; approved the Letter of Commitment to economic development staffing at 35% of time in support of San Joaquin County Enterprise Zone; and further approved the Memorandum of Understanding for Multi-Agency Cooperation in the Implementation, Management and Marketing of the San Joaquin County Enterprise Zone.
 - E-16 Adopted Resolution No. 2007-216 determining that the San Joaquin Valley Land Company LLC is in compliance with the Development Agreement executed on October 6, 2006, for the Reynolds Ranch Project and approving the October 2007 Reynolds Ranch Compliance Report.
 - E-17 Adopted Resolution No. 2007-217 approving the work plan and schedule for the City of Lodi's Sewer System Management Plan.
 - E-18 Set Public Hearing for November 21, 2007, to consider adoption of a resolution amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan development fees for 2008.
 - E-19 Set Public Hearing for November 21, 2007, to consider the adoption of a resolution establishing a fee schedule for the permit to operate for mobile food vendors.
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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Vincent Contino, President and Business Agent of Amalgamated Transit Union Local 276, informed the Council that employees of MV Transportation, which is the current contractor for the City of Lodi GrapeLine service, have expressed a desire to join the union. The union goal is to improve the working conditions for the employees, including establishing better schedules and duty hours. He expressed concern that MV employees were being harassed both on and off duty by members of the company who are attempting to discourage them from joining the union. Mr. Contino invited members of the Council to meet with the employees and union representatives to discuss this issue.
- Robert McGarry thanked Council Member Hansen for putting him in touch with Electric Utility Director Morrow and Manager of Rates and Resources Rob Lechner to discuss his electric bill. He believed that the rates were high and out of line and suggested the City raise the baseline rate, which could provide a moderate amount of assistance to many Lodi residents.

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

- Council Member Hansen stated there are many issues surrounding the delivery and generation of energy, which greatly affects the City's ability to control costs. One of the key issues is the debate over global warming and greenhouse gases, and there may be forthcoming legislation that will significantly impact the utility industry. The Council has been discussing the construction of a new 250 megawatt gas turbine generation plant at White Slough, which could assist Lodi in controlling its costs; however, the City still has many obstacles to overcome before it is a reality. Other potential cost savings measures include a second transmission line coming into Lodi from the west and behind the meter delivery of service. Mr. Hansen provided a report on the recent San Joaquin Council of Governments meeting, at which the Board discussed the Strategic Plan for 2007 that deals with Measure K transportation dollars and how they are spent. He will continue to monitor the plan to ensure Lodi receives its rightful distribution of funds to support its transportation projects. Mr. Hansen further reported that the City's allocation of transportation dollars may be in jeopardy, which could affect the City's ability to provide bus service, and staff will be looking into the matter.

- Mayor Pro Tempore Mounce thanked and recognized the Greater Lodi Area Youth Commissioners, staff liaison Brad Vander Hamm, and Adult Advisor Summer Pennino for successfully coordinating the Fall Formal dance (formerly the Pig Skin). There were over a thousand teenagers in attendance who were on their best behavior. Ms. Mounce announced that she will be attending the National League of Cities conference next week and will participate in sessions regarding mobile workshops, levy protection, historical preservation, building public and private relationships, public safety, infrastructure, and finance.
- Mayor Johnson responded to comments by Mr. McGarry regarding utility rates and reminded the public that rising utility costs also affect government by increasing its cost of doing business (i.e. gas prices for City vehicles, asphalt for street paving, etc.). Mr. Johnson reported that the Central Valley proposal to bring commuter rail traffic from Modesto, Merced, and Sacramento is beginning to get serious attention with support from each of the involved entities. It appears that the line near Flag City will not be utilized, but in the foreseeable future, there will be commuter rail traffic through Lodi, Galt, Stockton, and Elk Grove, which would help to alleviate commuter and traffic problems.

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 Johnson called for the public hearing to consider Report for Sidewalk Repairs and to confirm the Report as submitted by the Public Works Department.

Street and Drainage Manager George Bradley stated that the Report for Sidewalk Repairs was submitted in compliance with State law and past City practice. Eleven notices to repair were issued—eight completed the repairs themselves, two hired the City, and one did not perform the required work. The property owners were advised that, if they did not make the repairs, the City's contractor would repair the sidewalk and they would be billed for the cost. The one affected property owner has not responded, and Mr. Bradley recommended that he be assessed the cost of repairs and a Notice of Lien be filed with the tax collector.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

In response to Mayor Pro Tempore Mounce, Public Works Director Prima stated that the last time a property was levied for not performing required repairs was in 2005. Mr. Bradley added that it was for a single property on Holly Drive and the issue took up considerable staff time. In further response, Mr. Bradley confirmed that the City has followed this practice since the State law went into affect 96 years ago.

Mayor Pro Tempore Mounce believed citizens should be responsible for repairing damage to sidewalks when it is caused by trees on private property; however, they should not be required to repair City property when the City is responsible for the damage.

In response to Mayor Johnson, Mr. Prima confirmed that the City has assessed homeowners in the past for reasons other than sidewalk repair.

Council Member Hitchcock recalled that there was a short period of time that the City allowed Measure K funds to pay for sidewalk repairs along major corridors, to which Mr. Prima countered that those funds were used to install required sidewalks where none previously existed; it was not for repairs, unless it was caused by a City tree.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Katzakian second, unanimously confirmed the Report for Sidewalk Repairs as submitted by the Public Works Department and the cost of repairs report, determined the method of payment, assessed the cost of repairs to the affected property (121 Olive Court), and ordered the preparation of a Notice of Lien to be filed with the tax collector.

- I-2 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 continued public hearing to consider adoption of the 2007 California Building Code, Mechanical Code, Electrical Code, and Plumbing Code with local amendments and re-adopt the existing Building Permit Fee Schedule 1A for building, mechanical, plumbing, and electrical permits.

City Manager King informed Council that the fee component was removed from the recommendation in order to allow additional time to research the matter. The Building, Mechanical, Electrical, and Plumbing Codes, along with any local exceptions, must be adopted prior to January 1, 2008. If the codes are not adopted by the deadline, they will be automatically updated without the local exceptions.

Community Development Director Randy Hatch stated that the existing fee structure will be brought back to Council for approval at its November 21 meeting, at which time the second reading of the ordinances will occur.

Building Official Dennis Canright provided a brief presentation regarding the 2007 California Codes, highlighting the primary changes and reiterating that there is no proposed change in the fees at this time. In addition to publication and posting at the Community Development Department, staff provided the information and discussed the changes with the Building Industry Association, developers, and contractors.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Johnson second, unanimously introduced the following ordinances:

- Ordinance No. 1804 entitled, "An Ordinance of the Lodi City Council Adopting the '2007 California Building Code,' Volumes 1 and 2; Thereby, Repealing and Re-Enacting Lodi Municipal Code Chapter 15.04 in its Entirety";
- Ordinance No. 1805 entitled, "An Ordinance of the Lodi City Council Adopting the '2007 California Mechanical Code'; Thereby, Repealing and Re-Enacting Lodi Municipal Code Chapter 15.08 in its Entirety";
- Ordinance No. 1806 entitled, "An Ordinance of the Lodi City Council Adopting the '2007 California Electrical Code'; Thereby, Repealing and Re-Enacting Lodi Municipal Code Chapter 15.16 in its Entirety"; and
- Ordinance No. 1807 entitled, "An Ordinance of the Lodi City Council Adopting the '2007 California Plumbing Code'; Thereby, Repealing and Reenacting Lodi Municipal Code Chapter 15.12 in its Entirety."

- I-3 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 introducing ordinance repealing and reenacting Chapter 20 of Title 15 of the Lodi Municipal Code regulating and governing fire prevention and adopting by reference code known as the "California Fire Code, Title 24, California Code of Regulations, Part 9" and the 2006 Edition of the International Fire Code Standards, effective January 1, 2008.

City Manager King briefly introduced the subject matter and stated that there were no fee changes proposed with the Fire Code adoption.

Fire Marshal Verne Person reported that the Fire Code must be adopted by January 1, 2008; otherwise, it will be automatically updated without local amendments. The major change in the code is the adoption of the 2007 California Fire Code, which is based on the 2006 International Fire Code. The fire fees will remain unchanged, with the exception of the fee tied to review of building plans since it is based on percentage. Mr. Person highlighted the 13 changes to local amendments including increasing address sizes, illumination of addresses on new buildings, radio amplification system requirements, fire protection system maintenance notification, deletion of two-hour fire wall exception to fire sprinkler ordinance, fire protection system identification, guidelines for indoor tire storage, seizure and destruction of fireworks, administrative enforcement provisions, administrative cost for unprepared or failure to appear inspections, structure fire notification of Community Development, stop work order non-compliance, and fire hydrant distribution requirements. Notices regarding the new code adoptions were published in the newspaper and posted in the Community Development Department.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously introduced Ordinance No. 1808 entitled, "An Ordinance Repealing and Reenacting Chapter 15.20 of Title 15 of the City of Lodi Municipal Code Regulating and Governing Fire Prevention and Adopting by Reference a Certain Code Known as the 'California Fire Code, Title 24, California Code of Regulations, Part 9,' Incorporating the 2006 Edition of the International Fire Code and the 2006 Edition of the International Fire Code Standards, as Adopted and Compiled by the International Code Council."

- I-4 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 and approve the reallocation of available Community Development Block Grant (CDBG) and HOME Program income for an affordable housing project.

Community Improvement Manager Joseph Wood reported that the City has been pursuing an affordable housing project on Railroad Avenue; in 2006 it allocated \$330,000 in Community Development Block Grant (CDBG) funds for the land acquisition; and most recently, the developer for the project was selected. As part of the request for proposals, the City pledged \$1.2 million toward the acquisition of land for this project, which was to come from the program income collected through the housing assistance programs. Mr. Wood provided a breakdown of the housing assistance funds, showing the available balances in each. He recommended that Council reallocate funds from the CDBG housing rehabilitation program and GAP loan program and from the HOME rental rehabilitation program, Habitat for Humanity funds, and from other miscellaneous projects with available funds. This reallocation of \$863,343, combined with the previously allocated \$330,000, would provide the \$1.2 million committed to this project.

In response to Mayor Pro Tempore Mounce, Mr. Wood stated that the most active program is the down payment assistance program, which is being utilized even more now that the housing market has gone down. There are enough funds remaining to carry another three to four applications, depending on the size of funding.

Council Member Hitchcock expressed concern that the San Joaquin County Housing Authority has indicated it does not have the project base to fund Section 8 housing, which is a crucial component in making this affordable housing project a success. She further speculated whether this would truly be an affordable housing project for Lodi residents if Section 8 vouchers are available countywide. Mr. Wood responded that staff clarified with the Housing Authority that this Section 8 program is tied to the project and not the individual; therefore, the vouchers could not be used elsewhere. Community Development Director Hatch assured that the Housing Authority is tied to this project by a partnership for a project-based, Section 8 subsidy program and has committed funding toward this project.

Mayor Pro Tempore Mounce pointed out that there was a change in administration at the Housing Authority, and Mr. Hatch stated that any assurances made on the part of the Authority were guarantees of the agency; not the individual. Mr. Wood added that staff would ensure the new director was brought up to date on this matter.

In response to Mayor Pro Tempore Mounce, Mr. Wood stated that program income from current loans continues to accumulate; the allocation process for 2008 CDBG funds will begin in March; and staff will continue to promote and recommend funding for the housing assistance programs.

Council Member Hitchcock stated she was not opposed to allocating the money, but she wanted to be certain the City was funding an affordable housing program. The selected developer has closed the funding gap with the use of Section 8 vouchers, and she felt further research was necessary to ensure this funding was still available for the project.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously adopted Resolution No. 2007-218 approving the reallocation of \$863,343.18 in available Community Development Block Grant (CDBG) and HOME Program income for an affordable housing project.

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 Pro Tempore Mounce, Johnson second, unanimously directed the City Clerk to re-post for the following vacancies:

Lodi Arts Commission

Two Vacancies	Terms to expire July 1, 2008
One Vacancy	Term to expire July 1, 2010

J-3 Miscellaneous – None

RECESS

At 8:22 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 8:35 p.m.

K. REGULAR CALENDAR

- K-1 "Adopt Resolution Approving Issuance of up to \$35 Million of Wastewater Revenue Certificates of Participation Secured by Net Revenues of the City's Wastewater Enterprise to Finance Improvements to the Wastewater Collection, Treatment, and Disposal System and to Refund the Outstanding 1991 Certificates of Participation"

NOTE: Joint action of the Lodi City Council and the Lodi Public Improvement Corporation

City Manager King briefly introduced the subject matter and introduced Tom Dunphy from LaMont Financial Services and Eileen Gallagher with Stone and Youngberg.

Eileen Gallagher explained in detail the recommendation to approve the issuance of \$35 million in wastewater revenue Certificates of Participation (COP), which would provide \$21 million toward plant improvements and sewer pipeline rehabilitation with the remaining to refund the outstanding balance of the 1991 COP. Specific topics included wastewater enterprise net revenues and rate covenant, benefits of a cash funded reserve versus surety reserve, an upgraded rating of A- from Fitch and Standard & Poor's, summary of the seven bids received from insurance companies on the financing for bonding and reserves, opportunities to realize cost savings, interest rate trends on the municipal market, refunding of the 1991 COP, and information regarding the legal documentation and actions required by Council to finalize this matter. If approved by Council, the Preliminary Official Statement would immediately be submitted to potential investors, followed by pricing the week after, and potential closing on the first week of December.

In response to Council Member Hansen, Ms. Gallagher stated that, despite the fluctuating market, the rates are still relatively attractive at this point and, even with a 20-point swing, the City would still be in a decent position.

In response to Council Member Hitchcock, Public Works Director Prima confirmed that the funds from this COP would repair the pipeline that is currently experiencing difficulties and there would be no need to raise rates to cover this repair. There are other pipelines throughout the community, however, that will need to be addressed in the near future that could put pressure on the rates, and the question at that time will be whether to implement one large increase or spread out the rate structure to make it more palatable.

Council Member Hitchcock stated that her preference would be to have a cash reserve, rather than surety reserve, because the money would be "on the books." Ms. Gallagher explained that there is a cost savings for a surety reserve because it keeps the borrowing amount lower. Mr. King added there is a requirement that the reserve match one year of debt service; therefore, the City could not earn more in interest than it has to pay. In addition, a cash reserve is true cash on the books; however, it cannot be used. He felt the low bidder insurance company had a good rating and would adequately meet its obligations. Whether to use instrument of insurance or cash is a policy decision of the City Council.

Council Member Hansen expressed support for a surety reserve due to the cost savings. Further, he felt a cash reserve would be misleading because it would be a restricted asset that could not be utilized.

Council Member Katzakian believed it was not prudent to borrow \$2.9 million more only to leave it in an account that could not be used for anything else.

Discussion ensued between Mayor Johnson, Mayor Pro Tempore Mounce, and Ms. Gallagher regarding the interest earned on the cash reserve equaling the debt payment, the potential to lose money due to the arbitrage provision, and the administrative cost of having a cash reserve.

Council Member Hitchcock expressed her concern regarding surety bonds and felt that certain past practices have been less than traditional, which is the reason for her support of a cash reserve.

MOTION / VOTE (joint action of the City Council and Public Improvement Corporation):

The City Council and Lodi Public Improvement Corporation, on motion of Council Member/Director Hansen, Johnson second, adopted the following resolutions and further approved the use of a surety reserve:

- Resolution No. 2007-219 approving the forms of an Installment Purchase Agreement, a Certificate Purchase Contract, a Preliminary Official Statement, a Continuing Disclosure Certificate, and an Escrow Agreement relating to Wastewater System Revenue Certificates of Participation, 2007 Series A; and approving and authorizing certain other matters relating thereto; and
- Resolution No. LPIC2007-01 approving the forms and authorizing the execution and delivery of an Installment Purchase Agreement and a Trust Agreement in connection with City of Lodi Wastewater System Revenue Certificates of Participation, 2007 Series A; and approving and authorizing certain other matters related thereto.

The motion carried by the following vote:

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

Noes: Council Members/Directors – Hitchcock

Absent: Council Members/Directors – None

K-2 “Adopt Resolution Designating a Redevelopment Survey Area for Study Purposes and Directing that the Planning Commission Select a Redevelopment Project Area from All or Part of the Survey Area”

NOTE: Joint action of the Lodi City Council and Redevelopment Agency

NOTE: Due to a potential conflict of interest stemming from her interest in properties located in the potential survey area, Council Member Hitchcock abstained from discussion and voting on this matter and vacated her seat at the dais at 9:09 p.m.

City Manager King reported that the first formal step in the redevelopment project is the designation of a survey area, which was reviewed with Council at a Shirtsleeve Session on November 6. Two geographical areas were created, with Option A being the larger area made up of commercial and residential and Option B incorporating only the commercial corridors. Both options included projections on tax revenue and a review to determine if they met the requirements to form a redevelopment area. Based on a recommendation from the Lodi Budget/Finance Committee and on input from Council at the Shirtsleeve Session, it appeared that a larger area was the preference. Option A incorporates 1,583 acres, with a projected tax increment of \$331.9 million in future dollars (or \$130.9 million at present value), and Option A1, which was recommended by the Budget Committee, incorporates 1,763 acres—no estimates have been prepared at this time. Mr. King provided information on how tax increment is divided among the taxing entities and redevelopment agency and explained that this is not a new tax, but a redistribution of the increase of assessed valuation. Once Council selects the survey area, the Planning Commission will be asked to select the project area, which can consist of all or part of the area but no larger, followed by an analysis and projection of tax increment. Mr. King presented the Council with a diagram, which consisted of Option A1 as the base and added four areas brought up by Council Members at the Shirtsleeve Session labeled as: Option A1(a) – Lodi Avenue corridor; Option A1(b) – Lockeford Street area; Option A1(c) – northern area; and Option A1(d) – industrial area. He pointed out that Council Member Katzakian would have a conflict of interest with Option A1(c).

Mayor Pro Tempore Mounce questioned why the timeline was fast-tracked by a year and expressed concern that it did not leave ample time to go through the process. Mr. King responded that the schedule was moved up based on comments by Council to establish 2007-08 as the base year. To do so, Council would need to finalize the process no later than June 2008, which he believed could be accomplished and still provide enough opportunity for public input.

PUBLIC COMMENTS:

- John Talbot expressed opposition to the formation of a redevelopment project area, stating that the definition of blight has changed over the years. He cautioned Council on the destructive forces this action would have on the east side as he believed that, as defined under State law, the area is not blighted.
- Eunice Friederich spoke in opposition to the formation of a redevelopment project area, stating that it is a matter of greed when one agency takes money away from another. She felt the private sector should be given an opportunity to build up the area and was opposed to creating debt in order to have a redevelopment agency. Ms. Friederich expressed concern that she would be negatively impacted if the title of her property were labeled as blighted.

Mayor Pro Tempore Mounce questioned if Council Member Hitchcock would still be conflicted out if Option B were selected, to which Mr. King responded in the affirmative. Mr. King further stated that redevelopment could help pay for installation of water meters—either citywide for low- to moderate-income residents or for only properties located in the project area. Mayor Pro Tempore Mounce expressed concern that this creates another layer of government and she now believed that a smaller area addressing only the economic development portion, not residential, was the best option, particularly in light of the fact that funds would be available for low- to moderate-income residents on a citywide basis. She preferred to remove residential from the survey area to avoid the negative impact it could have on property values and expressed support for Option B.

In response to Mayor Johnson, Mr. King stated that some title companies may pick up the fact that a property is located within a project area; however, he believed it did not necessarily have a negative affect on the property. Don Fraser with Fraser and Associates added that, in his experience, he has not seen this to be an impediment to selling properties and studies have shown that assessed values actually increase inside the project area.

Council Member Hansen expressed support for a larger area because it provides a greater benefit to a greater number of people in Lodi. He disagreed that the designation of blight would have an adverse affect on the east side and stated that this would create a pool of funds to invest in the area without increasing taxes. Redevelopment provides funding relief for both those within the project area and those located outside the area for affordable housing; therefore, he expressed support for Option A1, with the opportunity to vote on each of the additional areas.

Mayor Johnson pointed out that school districts are typically supportive of redevelopment agencies and that the chairperson of the San Joaquin County Board of Supervisors has encouraged Lodi to move forward.

In response to Mayor Pro Tempore Mounce, Mr. King stated there are a number of vacant properties in Option A1(d), some of which could be removed during the review process.

In response to Council Member Hansen, Mr. King stated that the options for water meter installation assistance would still be available under Option B; however, there would be less money from which to draw.

Council Member Katzakian pointed out that Option B would be a third of the increment of Option A1 and that Option A1 has a balance of commercial, industrial, and residential.

MOTION #1:

Mayor Pro Tempore Mounce made a motion to select Option B as the redevelopment survey area. The motion **died** for lack of a second.

MOTION #2 / VOTE:

The City Council, on motion of Mayor Johnson, Hansen second, selected Option A1 as the redevelopment survey area. The motion carried by the following vote:

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

MOTION #3 / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, added Option A1(a) – Lodi Avenue corridor – to the redevelopment survey area. The motion carried by the following vote:

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

MOTION #4 / VOTE:

The City Council, on motion of Mayor Johnson, Mounce second, added Option A1(b) – Lockeford Street area – to the redevelopment survey area. The motion carried by the following vote:

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

MOTION #5:

NOTE: Due to a potential conflict of interest stemming from the location of his personal residence within the area of Option A1(c), Council Member Katzakian abstained from discussion and voting on this matter and vacated his seat at the dais at 9:58 p.m.

Mayor Pro Tempore Mounce made a motion to add Option A1(c) – northern area – to the redevelopment survey area.

DISCUSSION:

In response to Council Member Hansen, City Attorney Schwabauer stated that conflicting out both Council Members Hitchcock and Katzakian could have an adverse affect on future redevelopment-related actions as three votes would be required.

The motion **died** for lack of a second.

NOTE: Council Member Katzakian returned to his seat at 10:00 p.m.

MOTION #6 / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, added Option A1(d) – industrial area – to the redevelopment survey area. The motion carried by the following vote:

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

MOTION #7 / VOTE:

The City Council, on motion of Mayor Johnson, Hansen second, adopted Resolution No. 2007-220 designating the redevelopment survey area [as approved by the previous actions to include Options A1, A1(a), A1(b), and A1(d)] for study purposes and directing that the Planning Commission select a redevelopment project area from all or part of the survey area. The motion carried by the following vote:

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

NOTE: Council Member Hitchcock returned to her seat at 10:02 p.m.

RECESS

At 10:02 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 10:09 p.m.

K. REGULAR CALENDAR (Continued)

K-3 “Receive Progress Report on the City of Lodi General Plan Update”

City Manager King briefly introduced the subject matter and introduced consultant, Rad Bartlam, who is serving as project manager for the General Plan update.

Rad Bartlam provided an update on the status of the General Plan, stating that since May 2006 four tasks outlined in the schedule have been completed including stakeholder interviews, workshops, surveys, and working papers on land use and transportation, urban design and livability, growth and economic development, and greenbelt strategies. The City Council will hold a joint session with the Planning Commission on December 12 at 6 p.m. at Hutchins Street Square to receive a presentation on the working papers, workshop, and survey outcomes. Mr. Bartlam reviewed the updated schedule and highlighted the next milestones, which include staff review of the working papers in December, kick off of the alternative plan at the beginning of the year, Council selection of a preferred alternative in May, policy document and Environmental Impact Report through summer, public hearing process beginning in January 2009, and estimated date of March or April 2009 for final adoption of the General Plan update. He cautioned that this is a tight schedule and there is very little room left to make up time. Mr. Bartlam reported that he reviewed the work product, invoices to date, and various completed tasks, and he estimated the budget is over by \$30,000 at this stage in the process. He believed, however, that there was room to make up the budget and he would monitor it closely.

In response to Council Member Hitchcock, Mr. Bartlam stated he believed the budgeted amount was sufficient and that a 3% deviation above budget is acceptable.

Council Member Hansen acknowledged Mr. Bartlam’s efforts in getting this project back on task, both in terms of the schedule and budget.

In response to Mayor Johnson, Mr. Bartlam stated he believed the greatest public participation and input will come during discussion of the alternatives, rather than during the earlier stages of reviewing the background documentation.

MOTION / VOTE:

There was no Council action taken on this matter.

K-4 "Status of San Joaquin County's Consideration of an Armstrong Road Agricultural/Cluster Zoning Classification and Possible Staff Direction"

Community Development Director Randy Hatch reported that, as an outgrowth of the Greenbelt Task Force, the City developed a General Plan and sphere of influence amendment proposal titled the Lodi Agricultural Greenbelt Community Separator Amendment. During Council deliberation of the proposal, property owners in the affected area requested the matter be postponed to allow them to meet with County representatives to explore alternative proposals, which Council granted. Since the beginning of 2007, the property owners developed a cluster zoning proposal, which was submitted to the San Joaquin County Board of Supervisors for consideration. At its June 5 meeting, County staff was asked to prepare a supplemental report, and on October 23, the matter came back to the Board, at which time the following four options were presented: 1) take no action; 2) move forward with the proposal at a cost to the property owners of \$400,000; 3) move forward with the cost paid by the County; or 4) incorporate the proposal into the forthcoming County General Plan update. At the meeting, County supervisors questioned whether Lodi would consider allocating money to pay a portion of the \$400,000, to which Mr. Hatch replied that he did not have authority to make that commitment. County supervisors directed its staff to prepare an additional report and analysis and continued the meeting to a date unspecified.

In response to Council Member Hansen, Mr. Hatch stated that the County General Plan update is anticipated to begin in early 2008. The County estimated the cost of \$400,000 based on staff and consultant time necessary to review, analyze, and modify General Plan policies and environmental documentation.

City Manager King stated that Supervisor Ken Vogel will talk to the Board and a formal request inviting Council to direct staff to enter into discussions with the County on this proposal may be forthcoming.

Mr. Hatch highlighted the possible City actions as follows:

1. Wait and watch by monitoring the County's actions and reviewing its additional report and analysis; continuing to explore greenbelt/community separator in Lodi's General Plan update; and addressing greenbelt/community separator all around the City, not only Armstrong Road.
2. Participate in the development of the County's zoning proposal, which could include the City paying for some portion of the cost; City staff involved in the development and review of the proposal; and City Council evaluating and commenting on the proposal.
3. City to develop independent agricultural/cluster zoning proposal as part of its General Plan update and work with the property owners to draft a specific plan to incorporate many, if not all, of the key features of the cluster zoning proposal. The following two options could be considered in implementing this proposal:
 - a. Work with the County to draft a memorandum of understanding (MOU) based on the City's specific plan to regulate the area (County would retain land use authority) and submit area of interest designation request to the Local Agency Formation Commission (LAFCO).

- b. Work with the property owners to develop an annexation proposal for the area pursuant to the City's specific plan; request sphere of influence amendment and annexation from LAFCO; and provide services to the area according to the specific plan.

PUBLIC COMMENTS:

- Pat Stockar, affected property owner, stated he has attended the Board of Supervisors meetings and stressed the importance of making a decision on this matter as soon as possible. He felt that the property owners should not have to pay for this proposal and that the City should come forward as the greenbelt benefits this community and its quality of life. Mr. Stockar stated he did not support the option of an MOU and was concerned that the County General Plan would take too long to complete.

Council Member Hansen expressed discomfort with the County putting this matter back in Lodi's court. In response to Mr. Hansen, Mr. Stockar suggested a hybrid of the options and believed that an MOU, area of interest, or sphere of influence application at LAFCO were not appropriate for the land owners. He believed the City's general fund should support the mechanism for what it gets in the process and that the County, City, and property owners should work together toward a common goal.

In response to Council Member Hitchcock, Mr. Stockar stated that the AL5 zone provides flexibility for the property owners on what they can do with their lots; whereas, a master plan for the entire area would not. Council Member Hitchcock expressed concern that the AL5 zone would not prevent property owners from selling off portions of land at a higher density, which is not consistent with City development. Discussion ensued between Council Member Hitchcock and Mr. Stockar regarding annexation into the City of Lodi, LAFCO's position on the issue, and sphere of influence amendment. Council Member Hitchcock expressed concern about spending City money on something over which it has no control.

- Pat Patrick suggested a modified Option 3 of a collaborative effort between the City, County, and land owners to draft an MOU based on the group's ideas regarding what the area of interest should be. The property owners have stated they want to remain in agriculture and be more profitable; Lodi wants a greenbelt around its community, but cannot pay for it; and the County wants to keep the area agricultural.

In response to Council Member Hansen, Mr. Hatch stated that the concept was to have the property owners retain the County jurisdiction and, in working with the Board of Supervisors, develop an opportunity to allow wineries and other types of agricultural-related businesses. The flaw of the AL5 zone, from the City's perspective, is that there is nothing to stop property owners with large lots from selling to developers to develop subdivisions.

In response to Council Member Hansen, Mr. Patrick stated that a modified MOU could specifically define what is allowed in the area of interest and what types of businesses and developments are permitted. Option 3a is Lodi-specific and the land owners were left out of the process. He believed the solution was a collaborative effort among the three interested parties.

Council Member Hansen agreed that this issue not be stalled, and Mayor Pro Tempore Mounce requested the matter be discussed at a future Shirtsleeve Session. Council Member Hitchcock suggested that a special meeting may be more appropriate.

Mayor Johnson suggested that the LAFCO director be invited to a Shirtsleeve Session to discuss this matter, to which Mr. King pointed out that the current LAFCO director is serving in an interim basis and has publicly spoken in favor of the area of interest. Council Member Hansen further proposed that the chairperson of the Board of Directors also be included.

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 Johnson, Hansen second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

K. REGULAR CALENDAR (Continued)

K-5 "Authorize Contingency Fee Payment to Folger, Levin & Kahn, LLP, for the Hartford Litigation"

City Attorney Schwabauer provided a brief report on the contingency fee payment to Folger, Levin & Kahn (FLK) regarding the Hartford litigation, stating that the request was reasonable due to the fact that it was nearly equal to what the City would have been billed on a monthly basis and that FLK already expended the hours on recovery.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Hansen second, unanimously authorized the contingency fee payment to Folger, Levin & Kahn, LLP, for the Hartford Litigation.

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 (\$110,154.21)"

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 \$110,154.21, as detailed below:

Folger Levin & Kahn – Invoices Distribution

Matter No.	Invoice No.	Date	Description	Water Acct. Amount	100351
8001	104828	09/07/07	General Advice		\$ 366.33
8003	104596	09/07/07	Hartford v. City of Lodi	\$111,055.46	
			Hartford/Contingency Fee Savings	\$ -54,280.00	
8008	104817	09/07/07	City of Lodi v. Envision	\$ 41,470.66	
	7348	Aug-07	West Environmental Services	\$ 4,607.50	
	15445	Sep-07	PES Environmental, Inc. (Keith Obrien)	\$ 1,387.97	
Total				\$104,241.59	\$ 366.33
Grand Total				\$104,607.92	

MISCELLANEOUS

Invoice No.	Date	Description	Water Acct. Amount
20065309	6/07/2007	Legalink, Inc.	\$ 258.50
20068400	8/17/2007	Legalink, Inc.	\$ 555.80
20068405	8/17/2007	Legalink, Inc.	\$ 847.30
20068394	8/17/2007	Legalink, Inc.	\$ 925.40
20070528	9/24/2007	Legalink, Inc.	\$ 1,217.50
20070529	9/24/2007	Legalink, Inc.	\$ 709.10
20071651	3/13/2007	Legalink, Inc.	\$ 664.00
20063729	4/27/2007	Legalink, Inc.	\$ 368.69
Total			\$ 5,546.29

Continued November 7, 2007

L. ORDINANCES

None.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:41 p.m.

ATTEST:

Jennifer M. Perrin
Deputy City Clerk