

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, NOVEMBER 21, 2007**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of November 21, 2007, was called to order by Mayor Johnson at 5:15 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

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Margaret Stewart against City of Lodi Based on Personal Injury
- b) Actual Litigation: Government Code §54956.9(a); One Case; *County of San Joaquin v. City of Stockton et al.*, San Joaquin County Superior Court, Case No. CV029651
- c) Actual Litigation: Government Code §54956.9; Three Applications; *Steve Raddigan v. City of Lodi*; WCAB Case Numbers STK 206493 – Date Filed 12/23/02; STK 209237 – Date Filed 12/23/02; STK 209475 – Date Filed 12/23/02
- d) Conference with Blair King, City Manager, and Jim Krueger, Deputy City Manager (Acting Labor Negotiators), Regarding Lodi Police Officers Association Pursuant to Government Code §54957.6
- e) Review of Council Appointee – City Clerk (Government Code §54957)

C-3 ADJOURN TO CLOSED SESSION

At 5:15 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:55 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:02 p.m., Mayor Johnson reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

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

Item C-2 (d) was not discussed, and Item C-2 (e) was discussed under Regular Calendar Item K-4.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of November 21, 2007, was called to order by Mayor Johnson at 7:02 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 Reverend David S. Hill, Grace Presbyterian 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) Dennis Lewis, President of Lodi Adopt-A-Child, gave a presentation regarding the Lodi Adopt-A-Child annual Christmas program.

D-3 (b) Carey Vanderkar, Events Planner and Public Relations Developer for Hospice of San Joaquin, gave a presentation regarding the 2007 Hospice Tree Lighting in the City of Lodi.

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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 \$2,668,938.24.

E-2 The minutes of November 6, 2007 (Shirtsleeve Session), November 7, 2007 (Regular Meeting), and November 13, 2007 (Shirtsleeve Session) were approved as written.

E-3 “Approve Request for Proposals and Authorize Advertisement for Design Services for the Harney Lane Widening Project, Stockton Street to Western City Limits” was **pulled from the agenda**.

E-4 Adopted Resolution No. 2007-221 approving the purchase of heavy-duty equipment lift from Municipal Maintenance Equipment, Inc., of Sacramento, in the amount of \$83,174.60; and appropriating funds in the amount of \$3,170 in accordance with staff recommendation.

E-5 Adopted Resolution No. 2007-222 authorizing the City Manager to purchase 384 solid-state meters with Interval Data Module R300 from Itron, Inc., of Spokane, WA, in the amount of \$93,000.

E-6 Adopted Resolution No. 2007-223 awarding the contract for City of Lodi Public Library Lighting Retrofit to Quantum Energy Solutions, of Rancho Murieta, in the amount of \$36,967.

E-7 Adopted Resolution No. 2007-224 awarding the contract for City-Funded Maintenance of Landscape Areas for 2008, January 1, 2008 through June 30, 2008, to Odyssey Landscaping Company, Inc., of Stockton, in the amount of \$148,560.

E-8 Accepted improvements under the “Elm Street Overlay 2007 Project” contract.

E-9 Accepted improvements under the “Asphalt Rubber Cape Seal, Various Streets, 2007 Project” contract.

E-10 Adopted Resolution No. 2007-225 approving the Improvement Agreement for Public Improvements for 3021 South Cherokee Lane (Blue Shield) and authorizing the City Manager and City Clerk to execute the agreement on behalf of the City.

E-11 Adopted Resolution No. 2007-226 approving the Improvement Agreement for Public Improvements at 955 North Guild Avenue and authorizing the City Manager and City Clerk to execute the agreement on behalf of the City.

- E-12 Adopted Resolution No. 2007-227 approving the Improvement Agreement for Public Improvements for 2126 Tienda Drive and authorizing the City Manager and City Clerk to execute the agreement on behalf of the City.
- E-13 “Adopt Resolution Approving Time Extension for Pixley Park Agreements with G-REM, Inc.” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-14 Adopted Resolution No. 2007-228 amending the Statement of Benefits for Fire Mid-Management employees to adjust wages by 3.5%, effective July 1, 2007.
- E-15 “Adopt Resolution Establishing the Base Year Assessment for the Lodi Community Improvement Project and Authorizing the Transmittal of a Map and Boundary Description as Required by Law and Pay Required Filing Fees to the State Board of Equalization” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-16 “Adopt Resolutions Authorizing the City Manager to Execute an Amended and Restated Cooperative Agreement with the Redevelopment Agency of the City of Lodi; Authorizing the Executive Director to Execute an Amended and Restated Cooperative Agreement with the City of Lodi; and Joint Direction to Staff to Exclude the Power of Eminent Domain from the Redevelopment Plan” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-17 Received information regarding the new meeting time and day for the Lodi Library Board of Trustees to the second Monday of the month at 5:30 p.m., effective January 2008.
- E-18 Approved the response to the San Joaquin County Grand Jury regarding its investigation of the request for proposal process used by San Joaquin County Emergency Medical Services.
- E-19 Adopted Resolution No. 2007-229 approving the existing Building Code Fees, Schedule 1A, along with the existing fees for building, mechanical, plumbing, and electrical permits.
- E-20 Set public hearing for December 19, 2007, to adopt resolution approving paratransit service policy and procedures and implementing proposed changes to existing Dial-A-Ride services.

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ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-13 “Adopt Resolution Approving Time Extension for Pixley Park Agreements with G-REM, Inc.”

This item was pulled by Council Member Hitchcock for a brief presentation.

City Manager King stated it was his understanding that the contractor was unable to meet the provisions of the contract due to a lack of performance by his subcontractor and is recommending that the timeline be extended in exchange for additional slope protection work worth approximately \$300,000 being performed at no additional cost to the City.

In response to Council Member Hitchcock, John Farris with G-REM stated the subcontractor needs additional time to remove the dirt from the basin.

In response to Council Member Hitchcock, Mr. King stated the area was planned for a softball complex and there is not enough money to do a park now. Mr. Farris stated the time period for performance may be shorter than the requested two years. Mr. King stated the park is an ancillary use to the storm drain and would not address the current soccer field discussion.

In response to Council Member Hitchcock, Mr. Farris stated the design services, which are the responsibility of the City, may be reimbursable by storm or park impact fees.

In response to Council Member Hitchcock, Mr. Farris stated that the decision to handle the design through the Consultant for an additional cost instead of in-house was a decision that was made by the previous administration.

In response to Council Member Hitchcock, Mr. Farris stated that the reason for the extension is the subcontractor failed to perform. He stated the request is for two years because the dirt is being extracted from an active storm drain area and excavation cannot occur in the winter months. He stated they anticipate that the project will be completed in the summer of 2008.

MOTION / VOTE:

The City Council, on motion of Mayor Johnson, Katzakian second, adopted Resolution No. 2007-230 approving the Supplemental Agreement to the Pixley Park Property Exchange Agreement with G-REM, Inc., providing for a time extension for the Pixley Park Land Exchange Agreement and the Improvement Agreement for the Public Improvements of Pixley Park Site Grading and authorizing the City Manager and City Clerk to execute the agreement on behalf of the City. The motion carried by the following vote:

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

Noes: Council Members – Hitchcock

Absent: Council Members – None

- E-15 “Adopt Resolution Establishing the Base Year Assessment for the Lodi Community Improvement Project and Authorizing the Transmittal of a Map and Boundary Description as Required by Law and Pay Required Filing Fees to the State Board of Equalization” **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 project area, Council Member Hitchcock abstained from discussion and voting on this matter.

This item was pulled from the agenda by Mayor Pro Tempore Mounce for further discussion.

City Attorney Schwabauer briefly clarified the reasoning for disqualifications based on conflicts of interest.

MOTION / VOTE (joint action of the City Council and Redevelopment Agency):

The Redevelopment Agency, on motion of Chairperson Johnson, Hansen second, adopted Resolution No. RDA2007-03 establishing the base year assessment for the Lodi Community Improvement Project and authorizing the transmittal of a map and boundary description as required by law and pay required filing fees to the State Board of Equalization. The motion carried by the following vote:

Ayes: Members – Hansen, Katzakian, and Chairperson Johnson

Noes: Members – Mounce

Absent: Members – None

Abstain: Members – Hitchcock

- E-16 “Adopt Resolutions Authorizing the City Manager to Execute an Amended and Restated Cooperative Agreement with the Redevelopment Agency of the City of Lodi; Authorizing the Executive Director to Execute an Amended and Restated Cooperative Agreement with the City of Lodi; and Joint Direction to Staff to Exclude the Power of Eminent Domain from the Redevelopment Plan” **NOTE: *Joint action of the Lodi City Council and Redevelopment Agency.***

This item was pulled from the agenda by Mayor Pro Tempore Mounce for further discussion together with the previous item.

MOTION / VOTE (joint action of the City Council and Redevelopment Agency):

The City Council and Redevelopment Agency, on motion of Mayor/Chairperson Johnson, Hansen second, adopted Resolution No. 2007-231 authorizing the City Manager to execute an Amended and Restated Cooperative Agreement with the Redevelopment Agency of the City of Lodi; adopted Resolution No. RDA2007-04 authorizing the Executive Director to execute an Amended and Restated Cooperative Agreement with the City of Lodi; and further directed staff to exclude the power of eminent domain from the Redevelopment Plan. The motion carried by the following vote:

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

Noes: Council Members/Members – Mounce

Absent: Council Members/Members – None

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Ken Owen provided a brief overview of the annual "Keep Christ in Christmas" campaign and urged participation.

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

- Council Member Hansen wished everyone a Happy Thanksgiving and requested staff look into the soccer field matter and provide a response accordingly.
- Mayor Pro Tempore Mounce reported on her attendance at the National League of Cities conference and briefly discussed the affordable housing and historical preservation for mixed-use housing workshops. She also welcomed her Uncle Rodney to the Council meeting.
- Council Member Hitchcock requested a brief presentation of the new online system of recording citizen concerns. Mr. King provided an overview of the same, stating the system was now available on the City's homepage.

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

- City Manager King reported on the successful pricing and closing of the wastewater financing, the anticipated meeting in the upcoming week to discuss the soccer field matter and related private Grape Festival ground usage, and a possible park solution for the upcoming year. A brief discussion ensued between Mr. King, Council Member Hansen, Mayor Johnson, and Council Member Katzakian regarding the same.

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 the adoption of a resolution establishing a fee schedule for the permit to operate for mobile food vendors.

Community Improvement Manager Joseph Wood provided an overview of the mobile food vendor permit process and the history of Council consideration associated with the same.

In response to Council Member Hansen, Mr. Wood stated the special event permit application is a catchall for all vendors that are not acting in connection with some other already permitted event.

In response to Council Member Hansen, Mr. Wood stated there is a separate process for a band application or similar activity.

In response to Mayor Pro Tempore Mounce, Mr. Wood stated there is a separate and general prohibition against the display of open merchandise for sale for vendors who set up a display on private property.

In response to Mayor Pro Tempore Mounce, Mr. Wood stated they will likely be receiving more than 15 applications as the estimated number was for mobile food vendors only and does not include push cart vendors. He also stated that the enforcement procedure involves an administrative citation and a legal process if needed.

In response to Council Member Hitchcock, Mr. Wood stated a special event permit may be needed for a parade if it was not already covered by some other permit for a larger related event.

In response to Council Member Hitchcock, Mr. Wood stated the ancillary review of existing fees within the City is for comparison purposes only.

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. 2007-232 establishing a fee schedule for the permit to operate for mobile food vendors.

RECESS

At 8:19 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 8:30 p.m.

I. PUBLIC HEARINGS (Continued)

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 public hearing to consider adoption of a resolution amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan development fees for 2008.

Community Development Director Randy Hatch provided a brief presentation regarding the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan development fees for 2008. He specifically discussed the decrease in fees due to a decrease in land value, the payment of fees by only relevant land owners, and the recommendation of the San Joaquin Council of Governments (SJCOG) Board regarding the same.

In response to Council Member Hitchcock, Steve Dial with SJCOG, stated the formula method is designed to keep current with the markets, fees are broken into categories, and the fees decreased for the cost per acre category, but went up in other categories.

In response to Council Member Hitchcock, Mr. Dial stated that a minimum of 10 comparables are required and in the instant case he believed approximately 15 comparables were used.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, adopted Resolution No. 2007-233 amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan development fees for 2008. The motion carried by the following vote:

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

Noes: Council Members – Hitchcock

Absent: Council Members – None

J. COMMUNICATIONS

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

J-2 The following postings/appointments were made:

a) The City Council, on motion of Council Member Hansen, Mounce second, unanimously made the following appointments to be effective December 1, 2007:

Lodi Planning Commission

Debbie Olson Term to expire June 30, 2009

Library Board of Trustees

Eve Melton Term to expire June 30, 2009

J-3 Miscellaneous

a) The City Council, on motion of Council Member Hansen, Mounce second, unanimously accepted the cumulative Monthly Protocol Account Report through October 31, 2007.

K. REGULAR CALENDAR

K-1 “Adopt Resolution Authorizing the City Manager and Electric Utility Director to Procure up to \$10 Million Per Year of Energy and Capacity for Fiscal Year 2009 through 2011”

Electric Utility Manager Ken Weisel provided a PowerPoint presentation regarding the procurement of up to \$10 million of energy and capacity for fiscal years 2009 through 2011. He specifically discussed the overview of the fiscal year 2009 to 2011 open position and corresponding numbers. Mr. Weisel also discussed laddering guidelines and provided staff’s recommendation of having the authority to purchase up to \$10 million if the opportunities to do so arise.

In response to Council Member Hansen, Mr. Weisel stated the long-term objective is to close any gap in the open position. City Manager King clarified that the energy still must be bought on the open market.

In response to Council Member Hansen, Mr. Weisel stated that, after the purchase, he anticipates that the 2009 and 2010 open position will be closed, but the 2011 position will remain open. He stated, since they cannot guarantee when the best time to purchase is, it is better to not buy all at once. Mr. Hansen suggested a chart showing open positions be included in future presentations.

In response to Council Member Hitchcock, Mr. Weisel stated the earliest that the Lodi Project will be available is 2012 and it does not affect the said energy purchase. He stated there is a need to secure gas for the new plant as well.

In response to Council Member Hitchcock, Mr. Weisel stated approximately 20% of the 2/3 open position will remain left to be purchased after the Lodi Project comes online. Mr. Hansen confirmed that the Lodi Project’s subscription is for 30 megawatts, which is the current base load and greatly reduces the need to procure electricity on the open market.

In response to Council Member Hitchcock, Mr. Weisel stated the requested amount does account for fluctuations in the market and staff will return for purchases for the 2011 and 2012 years.

MOTION/ VOTE:

The City Council, on motion of Mayor Johnson, Mounce second, unanimously adopted Resolution No. 2007-234 authorizing the City Manager and/or Electric Utility Director to procure electricity and/or natural gas to reduce the Electric Utility Department's open position (energy and capacity not fully procured on an advanced basis) for fiscal years 2008-09 through 2010-11 in accordance with the City of Lodi Energy Risk Management Policies at a total cost not to exceed \$10 million for each year.

K-2 "Adopt Resolution Accepting the Municipal Services Review for the City of Lodi"

Community Development Director Randy Hatch provided a PowerPoint presentation regarding the Municipal Services Review. Specific topics of discussion included state law, San Joaquin Local Agency Formation Commission (LAFCO), sphere of influence plan, municipal services review, services reviewed, and key determinations.

In response to Council Member Hitchcock, Mr. Hatch stated that the review needs to be done on a five-year schedule and LAFCO is looking to adopt the various cities' reviews in January.

In response to Council Member Hitchcock, Mr. Hatch stated the review does not affect the current General Plan process as it is only looking at the existing sphere of influence. He stated any amendments to the same would be subject to a future review. Mr. Hatch also stated that the 1.5% used based on a historical analysis will allow for flexibility to expand the sphere of influence and General Plan if so desired.

In response to Council Member Hitchcock, Mr. Hatch stated the 2% was not used because it is difficult to justify since that number has never been met. He stated the Interim LAFCO Director also agreed with the position. Mr. Hatch stated he is not aware of the specifics of the Stockton review.

In response to Mayor Pro Tempore Mounce, Mr. Hatch stated the consultant cost for the review was less than \$20,000.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously adopted Resolution No. 2007-235 accepting the Municipal Services Review for the City of Lodi and forwarding the document to the San Joaquin Local Agency Formation Commission for adoption.

K-3 "Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel (\$104,651.49)"

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, 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 \$104,651.49, as detailed below:



**Folger Levin & Kahn - Invoices Distribution**

Matter No.	Invoice No.	Date	Description	Water Acct. Amount
8001	105040	Oct. 2007	General Advice	\$ 496.82
8003	105041	Oct. 2007	Hartford v. City of Lodi	\$ 3,826.63
8008	105077	Oct. 2007	City of Lodi v. Envision	\$ 93,848.50
Total				\$ 98,171.95

**Kronick Moskowitz Tiedemann & Girard - Invoices Distribution**

Matter No.	Invoice No.	Date	Description	100351.7323	Water Acct.
11233.026	235371	10/25/07	Lodi First v. City of Lodi	\$ 619.71	
11233.027	235371	10/25/07	Citizens for Open Government v. City of Lodi	\$ 1,016.25	
11233.028	235371	10/25/07	Personnel and Employment	\$ 1,275.35	
11233.029	235371	10/25/07	AT&T v. City of Lodi	\$ 1,702.87	
11233.030	235371	10/25/07	Water Supply Issues- Not PCE-Related		\$ 70.50
Total				\$ 4,614.18	\$ 70.50

**MISCELLANEOUS**

Invoice No.	Date	Description	Water Acct. Amount
1362530-110	Oct. 2007	JAMS Mediation Services	\$ 772.95
61008	Oct. 2007	Mason Investigative Group	\$ 1,021.91
			\$ 1,794.86

K-4 "Consideration of Adjustment to City Clerk Employment Agreement"

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, unanimously adopted Resolution No. 2007-236 approving salary adjustment of 11.6% for the City Clerk.

**L. ORDINANCES**

L-1 thru 5 Following reading of the titles of the ordinances listed below, having been introduced at a L-regular meeting of the Lodi City Council held November 7, 2007, the City Council, on motion of Mayor Pro Tempore Mounce, Hansen second, waived reading of the ordinances in full and adopted and ordered them to print by the following vote:

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

- 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";
- 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"; and

*Continued November 21, 2007*

- 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."

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:10 p.m.

ATTEST:

Randi Johl  
City Clerk