

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 5, 2020**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of August 5, 2020, was called to order by Mayor Kuehne at 6:35 p.m.

Present: Council Member Chandler, Council Member Mounce, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Absent: None

Also Present: City Manager Schwabauer, City Attorney Magdich, and City Clerk Cusmir

C-2 Announcement of Closed Session

- a) Actual Litigation: Government Code Section 54956.9; One Application; Todd Lewis v. City of Lodi, Workers' Compensation Appeals Board Case No. ADJ12528172 (DOI: 05/21/18) (CA)
- b) Actual Litigation: Government Code Section 54956.9; Four Applications; Todd Wagner v. City of Lodi; Workers' Compensation Appeals Board Case No. ADJ10881078 (DOI: 2/01/2017), No. ADJ10881070 (DOI: CT- 09/11/2016), No. ADJ11220729 (DOI: 02/19/2018), No. ADJ10443474 (DOI: 02/10/2015) (CA)
- c) Pending Litigation: Government Code §54956.9(a); one case; Cross Culture Christian Center, a California Non-Profit Corporation; Pastor Jonathan Duncan, an individual v. Gavin Newsom, in his official capacity as Governor of California, et al., United States District Court, Eastern District of California Case No. 2:20-cv-00832-JAM-CKD (CA)
- d) Pending Litigation: Government Code §54956.9(a); one case; Best Supplement Guide, LLC; Sean Covell, an individual, vs. Gavin Newsom, in his official capacity as the Governor of California, et al., United States District Court, Eastern District of California Case No. 2:20-cv-00965-JAM-CKD (CA)

C-3 Adjourn to Closed Session

At 6:35, Mayor Kuehne 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 Kuehne reconvened the City Council meeting, and City Attorney Magdich disclosed the following actions:

Items C-2a), C-2b), C-2c), and C-2d) were all discussion with no reportable action.

A. Call to Order / Roll Call

The Regular City Council meeting of August 5, 2020, was called to order by Mayor Kuehne at 7:02 p.m.

Due to the COVID-19 pandemic and pursuant to Executive Order N-29-20, all Council Members participated in the meeting via teleconference and the meeting was available for viewing by the public via livestream at <https://www.facebook.com/CityofLodi/> and <https://zoom.us/j/94214942009?pwd=MkJNWWWhVTk04N1h6MHIpeGNrOWVwUT09>; the opportunity for public comment was available through councilcomments@lodi.gov and <https://zoom.us/j/94214942009?pwd=MkJNWWWhVTk04N1h6MHIpeGNrOWVwUT09>.

Present: Council Member Chandler, Council Member Mounce, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Absent: None

Also Present: City Manager Schwabauer, City Attorney Magdich, and City Clerk Cusmir

B. Presentations – None

C. Consent Calendar (Reading; Comments by the Public; Council Action) All matters listed on the consent calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion of these items. If a member of the public would like a consent calendar item pulled and discussed separately, refer to the Special Teleconference Notice at the beginning of this agenda.

Mayor Pro Tempore Nakanishi made a motion, second by Council Member Chandler, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: Council Member Mounce

Absent: None

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

C-1 Receive Register of Claims for June 26, 2020 through July 16, 2020 in the Total Amount of \$4,382,462.03 (FIN)

Claims were approved in the amount of \$4,382,462.03.

C-2 Approve Minutes (CLK)

The minutes of June 30, 2020 (Special Meeting), June 30, 2020 (Shirtsleeve Session), July 1, 2020 (Regular Meeting), July 7, 2020 (Shirtsleeve Session), and July 14, 2020 (Shirtsleeve Session) were approved as written.

C-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Well 7 Electrical Improvements (PW)

Approved plans and specifications and authorized advertisement for bids for Well 7 Electrical Improvements.

C-4 Adopt Resolution Rejecting All Bids, Approving Specifications, Authorizing Re-Advertisement for Bids, Authorizing City Manager to Award Contract to Lowest Responsive Bidder for Lodi Avenue and Mills Avenue Resurfacing Project (\$1,400,000), and

Authorizing City Manager to Execute Change Orders (\$200,000) (PW)

This item was pulled from the Consent Calendar for public comment and discussion.

James Castle, CPA, Chief Financial Officer, Central Valley Engineering & Asphalt, Inc., provided comment via email (filed), requesting the City accept their bid as the responsive low bid and award the project.

Public Works Director Charles Swimley discussed the findings of the review of the bidders' Disadvantaged Business Enterprise (DBE) participation and explained that the staff recommendation to reject all bids and re-advertise for bids is based on an investigation of the bid results which found if the project were to be awarded a bid protest may result and/or federal funding for the project could be jeopardized.

There was additional discussion regarding the impact of the changing weather to the project schedule. City Manager Stephen Schwabauer elaborated on the possibility of losing federal funding.

Mayor Pro Tempore Nakanishi made a motion, second by Council Member Chandler, to adopt Resolution No. 2020-171 rejecting all bids, approving specifications, authorizing re-advertisement for bids, authorizing the City Manager to award contract to lowest responsive bidder for Lodi Avenue and Mills Avenue Resurfacing Project, in an amount not to exceed \$1,400,000, and authorizing the City Manager to execute change orders, in an amount not to exceed \$200,000.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: Council Member Mounce

Absent: None

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

C-5 Adopt Resolution Awarding Contract for Stormwater Trash Collection Project - Phase 1 (2020) to Soracco, Inc., of Lodi (\$223,870), and Authorizing City Manager to Execute Change Orders (\$50,000) (PW)

Adopted Resolution No. 2020-162 awarding contract for Stormwater Trash Collection Project - Phase 1 (2020) to Soracco, Inc., of Lodi, in the amount of \$223,870, and authorizing the City Manager to execute change orders, in an amount not to exceed \$50,000.

C-6 Adopt Resolution Authorizing the Purchase of Ammunition from San Diego Equipment Company, Inc., of San Diego, for Use by the Police Department (\$55,936) (PD)

Adopted Resolution No. 2020-163 authorizing the purchase of ammunition from San Diego Equipment Company, Inc., of San Diego, for use by the Police Department, in the amount of \$55,936.

C-7 Adopt Resolution Authorizing City Manager to Waive Bid Process and Purchase Ultraviolet Disinfection Parts from DC Frost Associates, Inc., of Walnut Creek, for White Slough Water Pollution Control Facility (\$94,583) (PW)

Adopted Resolution No. 2020-164 authorizing the City Manager to waive bid process and

purchase ultraviolet disinfection parts from DC Frost Associates, Inc., of Walnut Creek, for White Slough Water Pollution Control Facility, in the amount of \$94,583.

- C-8 Adopt Resolution Authorizing City Manager to Execute Amendment No. 1 to the Professional Services Agreement with Fieldman, Rolapp & Associates, of Irvine, for Municipal Advisory Services, Extending the Contract for Two Years, and Adding Continuing Disclosure Consulting Services for All City Debt Issuances for a Total Not to Exceed Amount of \$5,000 for the Added Services (CM)

Adopted Resolution No. 2020-165 authorizing the City Manager to execute Amendment No. 1 to the Professional Services Agreement with Fieldman, Rolapp & Associates, of Irvine, for municipal advisory services, extending the contract for two years, and adding continuing disclosure consulting services for all City debt issuances for a total not-to-exceed amount of \$5,000 for the added services.

- C-9 Adopt Resolution Authorizing the City Manager to Execute a Memorandum of Understanding Between the City of Lodi, Mokelumne Rural Fire District, and Liberty Fire District for the Purpose of Receiving, Administering, and Accounting of the California Office of Traffic Safety Grant Funds to Support Regional Collision Response and Extrication Improvement (FD)

Adopted Resolution No. 2020-166 authorizing the City Manager to execute a Memorandum of Understanding between the City of Lodi, Mokelumne Rural Fire District, and Liberty Fire District for the purpose of receiving, administering, and accounting of the California Office of Traffic Safety grant funds to support regional collision response and extrication improvement.

- C-10 Adopt Resolution Authorizing City Manager to Execute Task Order No. 49 with West Yost & Associates, Inc., of Davis, for Regulatory Engineering Services at White Slough Water Pollution Control Facility (\$193,700) (PW)

Adopted Resolution No. 2020-167 authorizing the City Manager to execute Task Order No. 49 with West Yost & Associates, Inc., of Davis, for regulatory engineering services at White Slough Water Pollution Control Facility, in the amount of \$193,700.

- C-11 Adopt Resolution Authorizing Police Chief to Accept Grant and Execute Contract Administered by the Department of Alcoholic Beverage Control, and Appropriate Funds (\$60,417) (PD)

Adopted Resolution No. 2020-168 authorizing the Police Chief to accept grant and execute contract administered by the Department of Alcoholic Beverage Control, and appropriate funds in the amount of \$60,417.

- C-12 Adopt Resolution Authorizing the City Manager to Execute a Memorandum of Agreement Between the City of Lodi and the County of San Joaquin Regarding Participation in the San Joaquin County Unified Mass Notification System (FD)

Adopted Resolution No. 2020-169 authorizing the City Manager to execute a Memorandum of Agreement between the City of Lodi and the County of San Joaquin regarding participation in the San Joaquin County Unified Mass Notification System.

- C-13 Adopt Resolution Authorizing City Manager to Execute Lease of City Property Located at 111 North Stockton Street (PW)

Adopted Resolution No. 2020-170 authorizing the City Manager to execute lease of City Property located at 111 North Stockton Street.

C-14 Accept Improvements Under Contract for White Slough Water Pollution Control Facility 2017 Irrigation System Improvements Project (PW)

Accepted improvements under contract for White Slough Water Pollution Control Facility 2017 Irrigation System Improvements Project.

C-15 Post for Vacancy on Lodi Improvement Committee (CLK)

This item was pulled from the Consent Calendar at the request of Council Member Mounce for discussion.

Council Member Mounce asked why there is a vacancy on the Lodi Improvement Committee, inquired as to whether or not there are problems with the committee and questioned as to whether or not the Committee should be disbanded.

City Manager Schwabauer stated that one member did move out of the area and Council Member Mounce requested staff provide additional information as to the reasons for the other vacancies.

Council Member Chandler made a motion, second by Mayor Pro Tempore Nakanishi, to direct the City Clerk to post for the following vacancy:

Lodi Improvement Committee

Alfredo Almazan Term to expire March 1, 2022

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: Council Member Mounce

Absent: None

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

Mayor Kuehne called for a recess of the Regular Meeting at 7:25 p.m and called to order the City Council Special Meeting at 7:25 p.m. The Special Meeting of the City Council adjourned at 7:32 p.m. and the Regular Meeting reconvened at 7:32 p.m.

D. Comments by the Public on Non-Agenda Items
THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES

Kenneth Huntley provided public comment via email (filed) regarding negative comments on social media about residents of the City of Stockton and asking for solutions to promote unity between the cities of Lodi and Stockton.

Jim Casey provided public comment via email (filed) regarding a proposal for a permanent homeless facility near the American Legion Building and requesting more information about the City's intentions and the proposal.

Spencer Rhodes provided public comment via email (filed) regarding a proposed permanent homeless facility at the Armory/Chapman Park reported by the Lodi News Sentinel and asking the City to consider a different location.

Kathy Davis provided public comment via email (filed) regarding housing the homeless at the Armory/Chapman Park and requesting the City not select that location.

Arlene Baker provided public comment via email (filed) regarding the homeless being housed by the American Legion Building or the Armory and requesting a location on the outskirts of the City be selected instead.

Debbie Kackley provided public comment via email (filed) regarding not being in favor of housing the homeless at the Armory.

Merlin Dais provided public comment via email (filed) regarding not being in favor of housing the homeless at the Armory/Chapman Park.

Amanda Lee provided public comment via email (filed) strongly supporting the City's plans to create a low-bar homeless shelter but not at the Armory/Chapman Park.

E. Comments by the City Council Members on Non-Agenda Items

Mayor Kuehne stated that he does not believe the homeless situation will get any better for any cities due to decisions made by Governor Newsom to release prisoners.

Council Member Mounce believes prison releases have led to the increase of the homeless and poor decisions made by the State legislators to release more prisoners rather than build more prisons. Council Member Mounce noted that the public commenting were against using the Armory as a location for a shelter.

Council Member Mounce reported that she has continued meeting with the San Joaquin Partnership via Zoom and the group is continuing to make headway.

Mayor Pro Tempore Nakanishi stated the problem of homelessness and COVID-19 will be with the City for years to come and spoke about how one problem attributes to the other. Mayor Pro Tempore Nakanishi highlighted some of the actions taken by the City to help address the problems caused by the homeless. Mayor Pro Tempore Nakanishi discussed the importance of social distancing and washing hands in the prevention of COVID-19 and reviewed some of the statistics from the County.

Council Member Chandler noted that the public comments were addressing what is a concept and not a proposal and he thinks all of the concepts require vetting. Council Member Chandler stated that there may never be a perfect location, but action needs to be taken.

F. Comments by the City Manager on Non-Agenda Items

City Manager Schwabauer stated that the City Council did give staff direction to explore the concept of a low-bar/no-bar shelter for the homeless and staff has started that process. Staff is doing its due diligence in exploring all options to bring to Council to be publicly discussed. There has been no location selected and there will be a public process to consider a location. City Manager Schwabauer stated that he shares many of the concerns of the public who provided comment and discussed the options legally available to the City. He also noted that there is a lot more work to complete other than vetting a location, such as securing funding.

G. Public Hearings

G-1 Public Hearing to Consider Adopting Resolution Declaring Results of the Majority Protest Proceedings and Renewing the Lodi Tourism Business Improvement District (LTBID) (CM)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Kuehne called for the public hearing to consider adopting resolution declaring results of the majority protest proceedings and renewing the Lodi Tourism Business Improvement District (LTBID).

Astrida Trupovnieks presentation regarding the last step of the approval process associated with the Lodi Business Improvement District. Carson Lambeth with Civitas and Nancy Beckman with Visit Lodi! were present to address questions from the Council. Nancy Beckman spoke about the business recovery effort that will be led by Visit Lodi! and the importance of the business district being renewed.

City Manager Schwabauer explained that the fee is a self-assessed fee that funds marketing efforts, which is not paid for by Lodi residents unless they happen to be lodging in Lodi hotels.

City Clerk Jennifer Cusmir declared that the City Clerk's Office received no votes in opposition.

Mayor Kuehne opened the public hearing for public comment.

There being no public comments, Mayor Kuehne closed the public hearing.

Council Member Chandler made a motion, second by Mayor Kuehne, to adopt Resolution No. 2020-172 declaring results of the majority protest proceedings and renewing the Lodi Tourism Business Improvement District (LTBID).

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Council Member Mounce, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: None

Absent: None

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

H. Regular Calendar – None

I. Ordinances

I-1 Adopt Ordinance No. 1978 Entitled, "An Uncodified Ordinance of the City Council of the City of Lodi Levying and Apportioning the Special Tax in Territory Annexed to Community Facilities District No. 2007-1 (Public Services) (Annexation No. 10)" (CLK)

Council Member Mounce made a motion, second by Council Member Chandler, (following reading of the title) to waive reading of the ordinance in full and adopt and order to print Ordinance No. 1978 entitled, "An Uncodified Ordinance of the City Council of the City of Lodi Levying and Apportioning the Special Tax in Territory Annexed to Community Facilities District No. 2007-1 (Public Services) (Annexation No. 10)," which was introduced at a regular meeting of

the Lodi City Council held July 15, 2020.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Council Member Mounce, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: None

Absent: None

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

J. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 8:14 p.m., in honor and remembrance of Wendel Kiser, local businessman and former member of the Planning Commission and the Site Plan and Architectural Review Committee.

ATTEST:

Jennifer Cusmir
City Clerk