

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JANUARY 7, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of January 7, 2009, was called to order by Mayor Hansen at 6:00 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Absent: Council Member Mounce

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

C-2 Announcement of Closed Session

a) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Lodi City Mid-Management Association Pursuant to Government Code §54957.6

b) Actual Litigation: Government Code §54956.9; One Application; Michael Johnson v. City of Lodi, WCAB Case No. STK 131477 10/24/96

c) 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-3 Adjourn to Closed Session

At 6:00 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 7:08 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:14 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions:

Item C-2 (a) was discussion only.

In regard to Item C-2 (b), negotiating direction was given.

In regard to Item C-2 (c), settlement direction was given.

A. Call to Order / Roll call

The Regular City Council meeting of January 7, 2009, was called to order by Mayor Hansen at 7:14 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Absent: Council Member Mounce

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

B. Invocation - Pastor Bill Cummins, Bear Creek Community Church

- C. Pledge of Allegiance
- D. Presentations
- D-1 Awards - None
- D-2 Proclamations - None
- D-3 Presentations - None
- E. Consent Calendar (Reading; Comments by the Public; Council Action)

Mayor Hansen made a motion, second by Mayor Pro Tempore Katzakian, 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 Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

- E-1 Receive Register of Claims in the Amount of \$7,072,785.20 (FIN)

Claims were approved in the amount of \$7,072,785.20.

- E-2 Approve Minutes (CLK)

The minutes of December 16, 2008 (Shirtsleeve Session), December 17, 2008 (Regular Meeting), December 23, 2008 (Shirtsleeve Session), and December 30, 2008 (Shirtsleeve Session) were approved as written.

- E-3 Report of Sale of Surplus Equipment (PW)

Received the report of sale of surplus Equipment.

- E-4 Adopt Resolution Authorizing the City Manager to Execute an Addendum to the Professional Services Agreement with 360 Architects for Civil Engineering Services for the Grape Bowl Renovation Project (COM)

Adopted Resolution No. 2009-01 authorizing the City Manager to execute an addendum to the professional services agreement with 360 Architects for civil engineering services for the Grape Bowl renovation project.

- E-5 Adopt Resolution Appointing Jordan V. Ayers as City of Lodi Treasurer (CM)

Adopted Resolution No. 2009-02 appointing Jordan V. Ayers as City of Lodi Treasurer.

- E-6 Adopt Resolution Authorizing the Deputy City Manager as a Signer on City of Lodi Farmers & Merchants Bank Accounts (CM)

Adopted Resolution No. 2009-03 authorizing the Deputy City Manager as a signer on City of Lodi

Farmers & Merchants bank accounts.

- E-7 Request Authorization for Joinder in Amicus Brief in Support of City of Irvine in the Case of City of Irvine v. Southern California Association of Governments, California Court of Appeal, Fourth Appellate District, Division 3 (CA)

Authorized joinder in amicus brief in support of City of Irvine in the case of City of Irvine v. Southern California Association of Governments, California Court of Appeal, Fourth Appellate District, Division 3.

- E-8 Set Public Hearing for January 28, 2009, for a Special Joint Meeting with the Planning Commission to Receive a Report and Recommendation on the Preferred General Plan Alternative (CD)

This item was pulled for further discussion regarding the proposed hearing date.

Mayor Hansen made a motion, second by Council Member Johnson, to set public hearing for February 11, 2009, at 6:30 p.m. for a special joint meeting with the Planning Commission to receive a report and recommendation on the preferred General Plan alternative.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

- F. 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. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

John Talbot, representing the Committee to Oppose Measure W, spoke in opposition to Measure W based on his concerns regarding mismanagement of City assets.

Ivan Suess, representing the Loel Center, spoke in favor of Measure W based on the possible benefits to the senior community and affordable housing for seniors.

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

Council Member Johnson spoke in favor of Measure W, stating there is no planned and/or approved wish list with redevelopment and the projects suggested are only possibilities that could happen with redevelopment. Mr. Johnson requested a copy of the student paper on redevelopment previously referenced by Council Member Mounce. Mr. Johnson suggested disbandment of the Greenbelt Task Force in light of the efforts and progress with the County by the Armstrong Road property owners. Mr. Johnson also requested the Energy Cost Adjustment be placed on a future agenda.

Council Member Hitchcock requested the City Attorney provide a report on the Fair Political

Practices Commission (FPPC) opinion provided recently regarding her signing the ballot argument for Measure W. Mr. Schwabauer stated the FPPC concluded there is no conflict in Ms. Hitchcock signing the ballot argument because the matter is no longer within the jurisdiction of the City, rather it is in the jurisdiction of the people and residents.

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

City Manager King stated that the State previously voted to stop funding public projects and the City received correspondence to stop using Proposition 12 and Proposition 40 money. Mr. King stated that money is being used on the Lodi Lake improvement project and staff will try to work with the State to ensure the project is completed based on an argument regarding contractual liability and keep the Council apprised of the same.

I. Public Hearings

I-1 Public Hearing to Solicit Feedback on Potential Uses of Neighborhood Stabilization Program Funds Being Made Available by the California Department of Housing and Community Development (CD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to solicit feedback on potential uses of Neighborhood Stabilization Program funds being made available by the California Department of Housing and Community Development (HCD).

City Manager King provided a brief introduction to the subject matter of the Neighborhood Stabilization Program.

Community Improvement Manager Joseph Wood provided a PowerPoint presentation regarding the Neighborhood Stabilization Program. Mr. Wood specifically discussed the Housing and Economic Recovery Act of 2008, funding to State and local jurisdictions, funding from the Department of Housing and Urban Development (HUD), allocations to San Joaquin County, allocations to California, eligible uses and activities, ineligible uses, the funding process for HCD, challenges, program implementation, and options for consideration.

In response to Mayor Hansen, Mr. Wood stated the City does not currently have the ability to handle real estate transactions and most jurisdictions utilize non-profit developers that are willing to participate in these types of programs. Mr. Wood stated there is an ongoing established list of possible non-profit developers.

In response to Council Member Johnson, Mr. Wood stated cities cannot necessarily go out into the open market and compete, private investors are starting to purchase the properties, and the best option appears to be dealing directly with the banks that are holding notes on the properties.

In response to Mayor Hansen, Mr. Wood stated that, although it is somewhat challenging, there will be success with the 15% appraisal requirement because there is an ability to wholesale properties more efficiently than holding on to properties over an extended period of time and banks are making it up in volume.

In response to Mayor Pro Tempore Katzakian, Mr. Wood stated HUD sets forth designation by zip code and the City Council can further designate areas by way of policy.

In response to Mayor Pro Tempore Katzakian, Mr. Wood stated the process is that foreclosed property will be purchased, property will be rehabilitated, it will then be sold to eligible low and

moderate buyers, and the property will no longer be blight on surrounding areas thereby providing some stability to the area.

In response to Mayor Pro Tempore Katzakian, Mr. Wood stated the funds available to entities may purchase larger numbers of properties, be rehabilitated, and then possibly rented for very low income or similar criteria. It may also benefit senior and supportive housing.

In response to Mayor Hansen, Mr. Wood stated the City directly does not qualify for direct allocation as other cities have a higher demand based on foreclosure numbers and Lodi had less of such an impact based on slower growth, foreclosures, incomes, and defaults.

In response to Council Member Hitchcock, Mr. Wood stated staff will check with HUD to see if the area can be broken down further by Census tracks and if not the City Council can further target areas by way of policy.

In response to Mayor Hansen, Mr. Wood stated the best practice would be to establish as a priority the east side and leave some consideration for worthy projects broadly in any area in the City.

In response to Council Member Hitchcock, Mr. Wood stated the bulk of foreclosures near Ham Lane and the railroad tracks are going to be based around the Mulberry Circle area south of Kettleman Lane.

Kathy Haring spoke in favor of the program, stating the funding would be applicable to approximately 65 homes and suggested focusing on a particular street to showcase a specific area. She also suggested finding a way to minimize administrative costs as much as possible.

Ann Cerney spoke regarding designating areas by way of the Census tract, eligibility for any persons wanting to purchase or rent within the City, and improved noticing for public hearings. In response to Council Member Johnson, Mr. Wood stated there were six notices provided regarding the hearing.

In response to Council Member Hitchcock, Mr. Wood stated there is an opportunity to tap into larger pools of funding from the State for larger scaled projects and the focus is on the 20% set aside for affordable housing. Mr. Wood stated larger scale projects in a particular area could benefit lower income brackets and organizations such as the Loel Center.

Council Member Hitchcock suggested staff look at a tie in with the transit oriented development corridor.

In response to Mayor Hansen, Mr. Wood stated the City sets standards for affordability of rents based on County income levels.

In response to Mayor Hansen, Mr. Wood stated the notice regarding availability should be out in the next few weeks, applications are due in February leaving enough time for Council and other agency approvals, and it will take 18 months from the time the agreement is finalized between the parties. Mr. King stated the hearing in February will include deed restrictions as well.

Mr. Wood confirmed that the general direction is to accept the eligible uses as suggested in the presentation under options and at the next public hearing consider possible designations of targeted areas and priorities.

J. Communications

- J-1 Claims Filed Against the City of Lodi - None
- J-2 Appointments - None
- J-3 Miscellaneous - None
- K. Regular Calendar
- K-1 Provide Direction Regarding Requested Ordinance Change Increasing the Number of Legal Cardroom Games, Expanding Cardroom Hours, and Increasing the Number of Tables (CA)

City Attorney Schwabauer briefly introduced the subject matter of seeking Council direction regarding whether or not to pursue a draft ordinance for consideration by the Attorney General in light of the request received by the cardroom to expand cardroom games, extend operating hours, and increase the number of tables.

In response to Council Member Hitchcock, Mr. Schwabauer stated the City Council may decide whether or not it wishes to be educated on the matter and give consideration to the request.

In response to Council Member Johnson, Mr. Schwabauer stated the Council does not have an ordinance with specifics before it to consider and at the current time it may give general direction about what it will and will not consider such as the games versus the operating hours.

In response to Council Member Hitchcock, Mr. Schwabauer stated the item is on the agenda because the City Attorney's office needs direction from a majority of the Council to expend time exploring the request and drafting the ordinance.

Stephen Snider, representative for the cardroom, provided an overview of the request to consider an extension of operating hours, expansion of games played, and increase in gaming tables. Mr. Snider also discussed the competition in the industry from neighboring areas and the request to play all games allowed by the Attorney General.

In response to Mayor Hansen, Mr. Snider stated the State currently allows 11 tables and the cardroom has 8 tables. Mr. Schwabauer stated the number of tables is not necessarily tied into floor space but it needs to be consistent with building occupancy.

In response to Council Member Hitchcock, Mr. Schwabauer stated if there is an increase in tables from 8 to 11, any additional table increase would still need to come back to the City Council for approval regardless of whether the State then increased again.

In response to Council Member Johnson, Mr. Snider stated the major problem outlined in the papers was gambling addiction and the cardroom actively participates in programs and with organizations to curtail that problem. He stated the cardroom also provides employee training to spot gamblers and the goal is to promote playing as recreation for customers.

In response to Council Member Hitchcock, Mr. Snider stated the City receives 9% of the cardroom revenues, parking concerns were anticipated and therefore the cardroom obtained a lot adjacent to the business for additional parking, and the business will continue to comply with all City requirements.

In response to Mayor Hansen, Mr. Snider stated the additional land is more than adequate to handle the additional parking.

Dale Edwards spoke in opposition to the cardroom request for review based on concerns regarding additional requests that will be forthcoming and affect of blight in neighboring areas from expansion. In response to Council Member Johnson, Mr. Schwabauer provided a definition overview of the term "blight" as referenced by Mr. Edwards.

Ken Owen spoke in opposition to the cardroom request based on concerns regarding the negative effects of gambling addiction as outlined in the brochure distributed by Mr. Owen.

Skip Halverson spoke in favor of the cardroom request based on the competition in the industry, the individuals running the business in a safe manner, and sufficient parking. In response to Council Member Hitchcock, Mr. Halverson stated there are more minority patrons at the cardrooms in Stockton.

Tom Newton, the owner of the cardroom, spoke in favor of the cardroom request based on the revenue to the City of 9%, additional lot secured for parking concerns, and cardroom employees.

Jane Laughler spoke in opposition to the cardroom request based on the negative representation of the business to the City.

In response to Mayor Hansen, Police Chief David Main stated there have been no noise, traffic, or crime concerns regarding the business over the last year and a half other than three auto burglaries.

In response to Mayor Hansen, Mr. Schwabauer stated a casino could not be built in the City with or without City Council approval, cardrooms are specifically exempted under statute, and the house cannot bet in a cardroom, although it can rent use of table space.

In response to Council Member Hitchcock, Mr. Newton stated the house charges \$4 per game of which \$1 goes to player promotion and \$3 goes into a slot for the house.

In response to Mayor Hansen, Mr. Newton confirmed that is what primarily generates revenue.

In response to Council Member Hitchcock, Mr. Schwabauer stated the State could change a definition on what is and is not allowed.

Council Member Johnson made a motion, second by Mayor Pro Tempore Katzakian, to authorize the City Attorney to draft an ordinance increasing the number of legal cardroom games, expanding cardroom hours, and increasing the number of tables.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Hitchcock

Absent: Council Member Mounce

K-2 Adopt Resolution Authorizing Purchase Agreement for City-Owned Property at 217 East Lockeford Street (CM)

This item was pulled and continued without further discussion to the next regularly scheduled City Council meeting.

K-3 Adopt Resolution Authorizing the City Manager to Execute Contract Amendment for DeBenedetti Park Rough Grading Contract with A.M. Stephens Construction Company, Inc., of Lodi, and Appropriating Additional Funds (\$180,000) (PW)

City Manager King briefly introduced the subject matter of executing a contract amendment for DeBenedetti Park in relation to grading.

Public Works Director Wally Sandelin provided a presentation regarding the proposed contract amendment for grading. Mr. Sandelin specifically discussed the previous direction for the 3.3 acres, the pool excavation as a risk the contractor is not willing to take, approval to rough grade basin area, and the cost being offset by the annual cost savings on maintenance and pump station savings. Mr. King stated the area in yellow on the diagram is a very deep hole and it will cost money to pump the water out. He stated there will be savings if the depth of the hole is reduced by filling it. Mr. King stated the area in blue will unlikely never have water, although the area is in the basin now and practically serves like a high ground area.

In response to Council Member Hitchcock, Mr. Sandelin stated the area west of Lower Sacramento Road serves as a water basin only for the existing areas. Discussion ensued between Council Member Hitchcock, Mr. Sandelin, and Mr. King regarding the area in the dotted line area as a football practice area, the lack of a storm to put enough water in the existing basin, proposed new soccer fields which will be planted and irrigated fields, the Parks and Recreation Commission reviewing programming, the issue of grading, the area in blue being designated as a multi-use sports area, and the difficulty with separating the project.

In response to Council Member Hitchcock, Mr. Sandelin provided an overview of the status of the park and Public Works since 1987. Council Member Hitchcock stated she would prefer to see the entire plan.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated the area highlighted in yellow is currently excavated to 30 feet and will be 20 feet while the blue area will remain the same at 10 feet. Mr. Sandelin stated when the deeper area fills to the maximum level then the overflow will go to the other area, although the likelihood is extremely small.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin confirmed both areas are used as temporary drainage.

In response to Mayor Hansen, Mr. Sandelin stated some fields are lighted and Parks and Recreation have approved the proposed action and will be coming back with more specifics.

Discussion ensued between the City Council regarding the option to get something started versus ensuring the right plan comes forth and is built.

In response to Mayor Hansen, Mr. Sandelin stated that, if the proposed action is not approved, staff could prepare additional specific information and return to Council. Mr. King stated staff could also bring back cost comparisons for the plans.

In response to Council Member Hitchcock, Mr. King confirmed that the matter will be referred back to the Parks and Recreation Commission prior to it being brought back to Council.

Mayor Hansen made a motion, second by Council Member Johnson, to bring back a more detailed report regarding costs for the two different plans as referenced by the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

K-4 Consider Appointment of Council Member to Newly Created Valley-Wide Special City Selection Committee (CLK)

Mayor Hansen made a motion, second by Council Member Hitchcock, to appoint Council Member Johnson as delegate and Mayor Pro Tempore Katzakian as alternate to the newly created Valley-wide Special City Selection Committee.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

K-5 Adopt Resolution Approving Salary Adjustment for City Clerk (CM)

Mayor Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-04 approving salary adjustment for City Clerk.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Hitchcock

Absent: Council Member Mounce

K-6 Approve Six-Month Budget for PCE/TCE Related Litigation Case (CA)

Council Member Hitchcock made a motion, second by Council Member Johnson, to approve six-month budget for PCE/TCE related litigation case (K-6) **AND** approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$48,115.29, as further detailed in the staff report (K-7).

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

K-7 Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$48,115.29) (CA)

Council Member Hitchcock made a motion, second by Council Member Johnson, to approve six-month budget for PCE/TCE related litigation case (K-6) **AND** approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$48,115.29, as further detailed in the staff report (K-7).

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 10:53 p.m.

ATTEST:

Randi Johl
City Clerk