

**LODI CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, JANUARY 20, 2015**

A. Roll call by City Clerk

The Special City Council meeting of January 20, 2015, was called to order by Mayor Johnson at 7:01 a.m.

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

Absent: Council Member Nakanishi

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

B. Regular Calendar

B-1 Set Public Hearing for February 18, 2015, to Consider and Approve an Amendment of the 2014-15 Annual Action Plan (CD)

Neighborhood Services Manager Joseph Wood explained that the purpose of this item was to set a public hearing for February 18, 2015, for the reallocation of Community Development Block Grant (CDBG) funds. One of the reallocations is toward a new activity, while the other is to reallocate funds to an existing project.

Council Member Mounce made a motion, second by Mayor Pro Tempore Chandler, to set a public hearing for February 18, 2015, to consider and approve an amendment of the 2014-15 Annual Action Plan.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Council Member Nakanishi

B-2 Appointments to the Lodi Arts Commission, Personnel Board of Review, and Recreation Commission and Re-Post for Remaining Vacancy on the Lodi Senior Citizen Commission (CLK)

City Clerk Robison reviewed the Mayor's recommended appointments to the Lodi Arts Commission, Personnel Board of Review, and Recreation Commission, and the recommendation to re-post for one remaining vacancy on the Lodi Senior Citizens Commission, which will remain open until filled.

Council Member Mounce expressed her belief that the selected candidates did not reflect the diversity of the community by including representation from other genders, ethnicities, or ages and, therefore, she stated she would not support the recommendation.

Mayor Johnson responded that he agreed diversity among a group is important; however, he additionally believed in appointing the best, most qualified person to a position, which was his recommendation before Council. In further response to Council Member Mounce, Mayor Johnson provided details regarding the candidates' qualifications, backgrounds, and priorities that each expressed during the interview process, which was the basis for his recommendation.

Mayor Pro Tempore Chandler made a motion, second by Council Member Kuehne, to make the following appointments and direct the City Clerk to re-post for one vacancy to remain open until filled, as recommended by the Mayor and detailed below:

#### Appointments

##### Lodi Arts Commission

Mary Finley, term to expire July 1, 2017

##### Personnel Board of Review

James Sheeran, term to expire January 1, 2018

John Stroh, term to expire January 1, 2018

##### Recreation Commission

Michael Carouba, term to expire December 31, 2018

Mark Hamilton, term to expire December 31, 2018

Jeff Palmquist, term to expire December 31, 2018

#### Posting

##### Lodi Senior Citizen Commission

One Vacancy, term to expire December 31, 2018

#### VOTE:

The above motion carried by the following vote:

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

Noes: Council Member Mounce

Absent: Council Member Nakanishi

#### B-3 Park Ordinance Update (PRCS)

Jeff Hood, Parks, Recreation, and Cultural Services Director, provided a PowerPoint presentation regarding the Park ordinance update. Specific topics of discussion included Park ordinance update, outreach recap for park permits, commercial park use permit fees, park permits for large groups, athletic field permits, smoking ban in parks, other changes to the Park ordinance, and the next steps in the Park ordinance update.

In response to Council Member Mounce, Mr. Hood stated exceptions include no commercial activity in parks on weekends and only concessionaires are allowed to conduct business activity at Lodi Lake. With regard to photographers, the exception is that photographs can be taken at Lodi Lake Park, but they would need to follow the commercial-use regulations.

In response to Mayor Pro Tempore Chandler, Mr. Hood stated that currently Headwaters is the only concessionaire at Lodi Lake. Further, groups will be allowed to teach classes at area parks, but not at Lodi Lake or at any park on the weekends.

In response to Mayor Johnson, Mr. Hood stated that rentals at Lodi Lake are heavily booked and the weekends are deeply impacted with visitors. The primary reason for this amendment is to prevent conflicts with park users, especially in light of recent changes in park usage and the population growth.

In response to Council Member Kuehne, Mr. Hood clarified that this ordinance addresses all parks, not solely Lodi Lake, and there would be no commercial activity in any park on the weekends, with some minor exceptions. With regard to concessionaires at Lodi Lake, only the City-contracted concessionaire would be permitted to operate at the lake.

In response to Council Member Mounce, Mr. Hood confirmed that, under this ordinance, any instructor who wants to teach class on City property will need to go through the Parks, Recreation, and Cultural Services Department process to ensure there are no conflicts with other

users, to make staff aware of usage for maintenance purposes, and to ensure the instructor is properly insured. This also prevents the business from putting its overhead on the taxpayers.

In response to Council Member Mounce, City Manager Schwabauer stated that part of the drive for this proposal is that commercial groups are taking over the parks and destroying the turf and equipment, thereby preventing taxpayers from using the facilities. For-profit businesses are creating hazards that could ultimately injure a park patron, and ultimately it is the City's obligation to protect its resources and citizens. Council Member Mounce added that the same is true regarding the homeless population that spoils parks with trash, drugs, and alcohol, yet this ordinance only targets business owners.

Mr. Hood provided further information regarding photography businesses, stating they are a commercial business, many of whom do not operate with a City business license. Recently, both Lodi Lake and Hutchins Street Square have had conflicts with photographers interfering with scheduled activities and creating turmoil for the paid, planned events.

In response to Mayor Pro Tempore Chandler, Mr. Hood explained that the Turf Tier 1 fee category is for low-use areas, whereas Turf Tier 2 is for areas with high visibility and demand.

In response to Mayor Johnson and Council Member Mounce, Mr. Hood stated that the participation rate is number of participants in an activity and that the fee, which is structured off of a similar ordinance from Denver, Colorado, is on an annual basis.

In response to Council Member Kuehne, Mr. Hood stated that park users are primarily vocal and will complain if they see violations. Additionally, the City has a park police officer program, which is year-round but tapered in winter months; a full-time Park Program Coordinator who handles park reservations and monitors park usage; and park maintenance staff that can handle policing of the ordinance. City Attorney Magdich added that violations of the ordinance would be cited and prosecuted by the City Attorney's Office, adding that warnings are typically given first and the majority of citations are for being in parks after hours and for alcohol. Mr. Schwabauer and Mr. Hood both reiterated that staff's initial approach is to warn people that they are in violation and to educate them on the rules. Only those unwilling to abide by the regulations and repeat offenders are cited.

In response to Council Member Kuehne, Mr. Hood stated that requests for a fee waiver would be approved by the Director and are typically granted to events geared toward community benefit.

In response to Mayor Johnson, Mr. Hood stated that there is a weekly print out of park events that can be shared with police officers for assisting in monitoring approved uses. In most cases, a follow-up phone call would be made the next day to educate those in violation of the rules.

Council Member Mounce suggested that, instead of a complete ban on cigarette smoking in parks, designated areas be set aside for smokers and that all marijuana smoking in parks be banned. Mr. Hood responded that option is available, adding that some cities have designated smoking areas during special events but the general rule has been to prohibit smoking altogether.

Council Member Kuehne agreed that parks should have a designated smoking area and stated he was opposed to an outright ban on smoking.

Mayor Johnson believed that this ordinance will be difficult to police and that designating set-aside smoking areas will only compound the enforcement issue and, therefore, he was not adverse to banning all smoking in parks.

Mr. Schwabauer confirmed that the smoking ban is not only for tobacco, but would also include marijuana.

Council Member Mounce stated a compromise could be no smoking in parks 100 percent of the time, with the exception of during events where a designated area could be set aside for smokers.

In response to Mayor Johnson, Mr. Hood stated that the ordinance would override any specific no-smoking policies at individual parks, adding that the Director currently has the authority to designate certain areas as non-smoking, but he felt this was too big of a public policy to implement on his authority alone.

Kelly Gretsinger expressed concerns with the proposed ordinance based on the fact that this appears to be another tax on businesses, this would add further red tape to the process, it discourages people from exercising at public parks, and the ban on smoking is too prohibitive. He complained that the amount of litter and debris at the entries into Lodi has increased over the past few years. Mr. Gretsinger suggested staff review Government Code Section 831.7, which he believed already protected municipalities from injuries on playing fields and in parks, making this ordinance amendment unnecessary as it relates to City liability.

Myrna Wetzel stated that studies show walking is good exercise, and has no associated fee, and that she was supportive of the non-smoking ban in parks.

Ed Miller expressed opposition to the proposed ordinance, stating that staff should regularly review its ordinances to ensure they do not become outdated and obsolete and that it make incremental changes annually. He further stated there was insufficient evidence to justify the no-smoking ban and that, if all smoke were banned from parks, smoke from barbecues would also have to be banned. He suggested that further discussion and review occur on this proposed ordinance, including methods to address the growing litter problem.

Michael Carouba expressed support for the no-smoking ban in parks, stating that it sends a poor message to children when coaches and parents smoke during sporting events and park activities. Public parks should be free from cigarette smoke.

Larry Long, Parks and Recreation Commissioner, stated that the Commission has been discussing this ordinance amendment for a long time and that the purpose is to ensure that area parks are available for multiple uses, are safe for all who use them, and free from cigarette smoke. The ordinance is not being amended in order to generate money; rather, it is to ensure all events, activities, and daily uses line up; that facilities and equipment are not damaged; and that patrons are not injured as a result of the damage, the cost for which the City ultimately pays.

Council Member Mounce believed additional work was necessary on the ordinance amendment in order to line up specifics regarding fees for photographers and the smoking ban, while also factoring in the homeless at parks. She felt this ordinance did nothing to address the major gang, drug, and alcohol problems at Hale and Lawrence Parks. She requested the City Attorney research Government Code Section 831.7 to see how it conflicts with the proposed ordinance amendment. She further cautioned new Recreation Commission members about expressing opinions prior to voting on an issue.

Mr. Hood stated that staff ultimately opted to leave the homeless issue to Council and the task force as they would be looking at the issue from a community-wide standpoint and not solely for parks.

C. Comments by public on non-agenda items - None.

D. Adjournment

There being no further business, the meeting was adjourned at 8:26 a.m.

ATTEST:

Jennifer M. Robison  
City Clerk