

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, APRIL 6, 2011**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of April 6, 2011, was called to order by Mayor Johnson at 5:30 p.m.

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

Absent: Council Member Nakanishi

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

C-2 Announcement of Closed Session

a) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters Pursuant to Government Code §54957.6

b) Actual Litigation: Government Code §54956.9; Three Applications - Elizabeth Barney v. City of Lodi, ADJ7110885 - 7/09/09, Unassigned Cases - 11/06/09 and 09/10/10; One Application - William Broderick v. City of Lodi, ADJ7619600 - 01/23/10; One Application - Virginia Elder v. City of Lodi, ADJ895653 - 12/12/07; One Application - Bonnie Garcia v. City of Lodi, Unassigned Case - 03/21/08; One Application - Curtis Gokey v. City of Lodi, ADJ4360240 - 12/31/05; One Application - Gregory Hayden v. City of Lodi, STK214337 - 03/10/08; One Application - Kari Locaso v. City of Lodi, ADJ7194880 - 07/18/08; One Application - Shana Lopez v. City of Lodi, Unassigned Case - 07/27/04; One Application - Sherry Moroz v. City of Lodi, STK0201965 - 10/20/05; One Application - Alonzo Powell v. City of Lodi, STK0201699 - 11/22/02; Six Applications - Reba Ridino v. City of Lodi, STK0214846 - 09/01/94; STK0214844 - 08/24/98, STK0214843 - 12/20/05, STK0214853 - 03/26/06, Unassigned Case - 12/03/06, STK0214842 - 05/29/07; Seven Applications - Vicky Whetstone v. City of Lodi, STK0187121 - 06/01/00, STK0187122 - 06/18/02, STK0187125 - 03/13/03, STK0187124 - 11/20/03, STK0187123 - 12/03/03, Unassigned Case - 02/28/07, STK0210955 - 06/26/07

c) Pending Litigation: Government Code §54956.9(a); One Case; Dean Newhall v. City of Lodi, U.S. District Court, Eastern District of California, Case No. 2:11-CV-00579-GEB-KJN

C-3 Adjourn to Closed Session

At 5:30 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:50 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:00 p.m., Mayor Johnson reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

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

A. Call to Order / Roll call

The Regular City Council meeting of April 6, 2011, was called to order by Mayor Johnson at 7:00 p.m.

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

Absent: None

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

B. Presentations

B-1 Sexual Assault Awareness Month Proclamation

Mayor Johnson presented a proclamation to Jazmin Hurtado, Sexual Assault Prevention Specialist with the Women's Center of San Joaquin, proclaiming the month of April 2011 as "Sexual Assault Awareness Month" in the City of Lodi.

B-2 Keep Lodi Beautiful Month Proclamation (CD)

Mayor Johnson presented a proclamation to Neighborhood Services Manager Joseph Wood and Waste Management representative Jennelle Bechthold proclaiming the month of April 2011 as "Keep Lodi Beautiful Month" in the City of Lodi.

B-3 National Library Week Proclamation (LIB)

Mayor Johnson presented a proclamation to Nancy Martinez, Library Services Director, proclaiming the week of April 10 - 16, 2011, as "National Library Week" in the City of Lodi.

B-4 Presentation of the Library Volunteer of the Year Award (LIB)

Caitlin Casey with the Library Board of Trustees presented the Library Volunteer of the Year Award to Helen Gross.

C. Consent Calendar (Reading; Comments by the Public; Council Action)

Mayor Johnson made a motion, second by Mayor Pro Tempore Mounce, to approve the following items hereinafter set forth in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

C-1 Receive Register of Claims in the Amount of \$3,851,323.34 (FIN)

Claims were approved in the amount of \$3,851,323.34.

C-2 Approve Minutes (CLK)

The minutes of March 15, 2011 (Shirtsleeve Session), March 15, 2011 (Special Meeting), March 16, 2011 (Special Meeting), March 22, 2011 (Shirtsleeve Session), and March 29, 2011 (Shirtsleeve Session) were approved as written.

C-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Van Buskirk Park Playground Replacement, 600 North Pleasant Avenue (PW)

Approved the plans and specifications and authorized advertisement for bids for Van Buskirk Park Playground Replacement, 600 North Pleasant Avenue.

C-4 Approve Specifications and Authorize Advertisement for Bids for Extruded Thermoplastic Lane Line Marking for Various City Streets (PW)

Approved the specifications and authorized advertisement for bids for extruded thermoplastic lane line marking for various City streets.

C-5 Approve Specifications and Authorize Advertisement for Bids to Procure Polemount and Padmount Transformers (EUD)

Approved the specifications and authorized advertisement for bids to procure polemount and padmount transformers.

C-6 Adopt Resolution Rejecting Non-Responsive Bid from Advanced Striping and Equipment, of Douglasville, Georgia, and Authorizing Purchase of Thermoplastic Equipment Trailer with Pre-Melting Kettles from Mark Rite Lines Equipment Company, of Billings, Montana (\$58,052.92) (PW)

Adopted Resolution No. 2011-42 rejecting non-responsive bid from Advanced Striping and Equipment, of Douglasville, Georgia, and authorizing the purchase of thermoplastic equipment trailer with pre-melting kettles from Mark Rite Lines Equipment Company, of Billings, Montana, in the amount of \$58,052.92.

C-7 Adopt Resolution Authorizing the City Manager to Execute Contract for 2011 Streets Crack Sealing Project with American Asphalt Repair and Resurfacing Company, of Hayward (\$42,788.13) (PW)

Adopted Resolution No. 2011-43 authorizing the City Manager to execute contract for 2011 Streets Crack Sealing Project with American Asphalt Repair and Resurfacing Company, of Hayward, in the amount of \$42,788.13.

C-8 Adopt Resolution Authorizing the City Manager to Execute Agreement with Calgon Carbon Corporation, of Pittsburgh, for Change Out of Granular Activated Carbon (\$204,780.50) and Appropriating Funds (\$20,000) (PW)

Adopted Resolution No. 2011-44 authorizing the City Manager to execute agreement with Calgon Carbon Corporation, of Pittsburgh, for change out of granular activated carbon in the amount of \$204,780.50 and appropriating funds in the amount of \$20,000.

C-9 Adopt Resolution Authorizing the City Manager to Execute Contract for Municipal Service Center Parking Lot Improvement Project with A.M. Stephens Construction Company, Inc., of Lodi (\$183,456.85), and Appropriating Funds (\$91,000) (PW)

Adopted Resolution No. 2011-45 authorizing the City Manager to execute contract for Municipal Service Center Parking Lot Improvement Project with A.M. Stephens Construction Company,

Inc., of Lodi, in the amount of \$183,456.85, and appropriating funds in the amount of \$91,000.

- C-10 Adopt Resolution Rejecting Protest, Authorizing the City Manager to Execute Contract for G-Basin (DeBenedetti Park) Stormwater Pumping Station Project with F & H Construction, of Stockton (\$1,746,000), and to Negotiate a Professional Services Agreement with Neil O. Anderson & Associates, of Lodi, to Provide Construction Testing and Inspection Services for G-Basin Storm Drain Related Projects (Not to Exceed \$35,000) and Appropriating Funds (\$2,100,000) (PW)

Adopted Resolution No. 2011-46 rejecting protest, authorizing the City Manager to execute contract for G-Basin (DeBenedetti Park) Stormwater Pumping Station Project with F & H Construction, of Stockton, in the amount of \$1,746,000, and to negotiate a Professional Services Agreement with Neil O. Anderson & Associates, of Lodi, to provide construction testing and inspection services for G-Basin storm drain related projects in an amount not to exceed \$35,000 and appropriating funds in the amount of \$2,100,000.

- C-11 Adopt Resolution Approving the Agreement Between the City of Lodi and Spare Time, Inc., dba Twin Arbors Athletic Club, for the Summer Swim League Program (PR)

Adopted Resolution No. 2011-47 approving the agreement between the City of Lodi and Spare Time, Inc., dba Twin Arbors Athletic Club, for the Summer Swim League Program.

- C-12 Adopt Resolution Approving and Agreeing to Abide by the California Disaster and Civil Defense Master Mutual Aid Agreement (FD)

Adopted Resolution No. 2011-48 approving and agreeing to abide by the California Disaster and Civil Defense Master Mutual Aid Agreement.

- C-13 Adopt Resolution Approving Annual Renewal and Authorizing Payment of Shared Automation Fee Structure for the Agreement Between City of Stockton and City of Lodi for Use of the Stockton San Joaquin County Public Library-Sirsi, Corp., Integrated Library System (\$35,256.46) (LIB)

Adopted Resolution No. 2011-49 approving annual renewal and authorizing payment of shared automation fee structure for the agreement between City of Stockton and City of Lodi for use of the Stockton San Joaquin County Public Library-Sirsi, Corp., Integrated Library System in the amount of \$35,256.46.

- C-14 Authorize City Attorney to Enter Retainer Agreement with Mark Berry of Mayall, Hurley, Knutsen, Smith & Green, of Stockton, California, for Legal Services for Individually-Named Officers in Newhall v City of Lodi (CA)

Authorized the City Attorney to enter retainer agreement with Mark Berry of Mayall, Hurley, Knutsen, Smith & Green, of Stockton, California, for legal services for individually-named officers in Newhall v City of Lodi.

- C-15 Accept Improvements Under Contract for Municipal Service Center PBX Replacement Project (PW)

Accepted the improvements under contract for Municipal Service Center PBX Replacement Project.

- C-16 Accept Improvements Under Contract for Lodi Avenue Reconstruction Project, Union Pacific Railroad to Cherokee Lane (PW)

Accepted the improvements under contract for Lodi Avenue Reconstruction Project, Union Pacific Railroad to Cherokee Lane.

C-17 Approve Summer Transit Pass Reduced Fare (PW)

Approved the Summer Transit Pass Reduced Fare.

C-18 Adopt Resolution Approving Proposition 1B Funding for 2011 Cape Seal Project (\$889,600) (PW)

Adopted Resolution No. 2011-50 approving Proposition 1B funding for 2011 Cape Seal Project in the amount of \$889,600.

C-19 Receive Report Regarding Final Costs for the November 2, 2010, General Municipal Election (CLK)

Received the report regarding final costs for the November 2, 2010, General Municipal Election.

C-20 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Opposition to HR 1002 - Wireless Tax Fairness Act of 2011 (CLK)

Authorized the Mayor, on behalf of the City Council, to send a letter of opposition to HR 1002 - Wireless Tax Fairness Act of 2011.

C-21 Adopt Resolution Rescinding Resolution Nos. 3312 and 3344 and Adopting and Implementing Procedures for Administration of Employer-Employee Relations (CM)

Adopted Resolution No. 2011-51 rescinding Resolution Nos. 3312 and 3344 and adopting and implementing procedures for administration of employer-employee relations.

C-22 Set Public Hearing for April 20, 2011, to Approve the Final 2011/12 Action Plan for the Community Development Block Grant Program (CD)

Set public hearing for April 20, 2011, to approve the final 2011/12 Action Plan for the Community Development Block Grant (CDBG) Program.

In response to Council Member Nakanishi, Mr. Bartlam stated the total amount of the CDBG funding for the year is approximately \$750,000.

C-23 Set Public Hearing for April 20, 2011, to Consider Approval of the Following Items: a) Certify the South Hutchins Annexation Mitigated Negative Declaration as Adequate Environmental Documentation for the Proposed South Hutchins Annexation Project; and b) Approve the South Hutchins Annexation Project, which Includes an Annexation and Pre-Zoning

Set public hearing for April 20, 2011, to consider approval of the following items: a) certify the South Hutchins Annexation Mitigated Negative Declaration as adequate environmental documentation for the proposed South Hutchins Annexation Project; and b) approve the South Hutchins Annexation Project, which includes an annexation and pre-zoning.

C-24 Set Public Hearing for May 18, 2011, to Consider Adopting Resolution Setting Wastewater Rates for Residential, Commercial, and Industrial Customers (PW)

Set public hearing for May 18, 2011, to consider adopting resolution setting wastewater rates for residential, commercial, and industrial customers.

C-25 Set Public Hearing for May 18, 2011, to Introduce an Ordinance on Economic Incentive Rate Discounts (EUD)

Set public hearing for May 18, 2011, to introduce an ordinance on economic incentive rate discounts.

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. 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.

Robin Rushing spoke regarding his concerns about transportation availability for citizens to City events and proactively raising rates where necessary.

Michael Warren spoke regarding his concerns about the Downtown Lodi Business Partnership and its financial practices.

Ben Anderson spoke regarding raising awareness of the Lodi community feeling through an agriculture planting program for volunteers.

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

Council Member Nakanishi provided a status report on Community Development Block Grant funding availability at the federal level and the likelihood of cuts to the program.

Council Member Hansen provided a status report regarding the Northern California Power Agency Commission meeting and discussed budget and staffing level reductions and the Highway 12 Project.

Mayor Pro Tempore Mounce asked staff to follow-up on the Valley Tool agreement for improvement deferrals.

Mayor Johnson asked staff to follow-up on the lighting on School Street. Council Member Hansen asked staff to follow-up on the lighting on Elm Street.

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

City Manager Bartlam reported that information regarding water meters was available on the City's website.

G. Public Hearings - None

H. Communications

H-1 Post for One Vacancy on the Lodi Arts Commission (CLK)

Mayor Pro Tempore Mounce made a motion, second by Mayor Johnson, to direct the City Clerk to post for the following vacancy:

Lodi Arts Commission

J. Mark Hamilton, term to expire July 1, 2011

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

H-2 Appointments to the Library Board of Trustees and Lodi Animal Advisory Commission (CLK)

Mayor Pro Tempore Mounce made a motion, second by Mayor Johnson, to make the following appointments:

Library Board of Trustees

Terry Costa, term to expire June 30, 2013

Lodi Animal Advisory Commission

Hy Cohen, term to expire December 31, 2012

John Primasing, term to expire December 31, 2013

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

I. Regular Calendar

I-1 Introduce Ordinance Repealing and Re-enacting Lodi Municipal Code Chapter 9.12, "Fires, (Introduce) Firearms, and Fireworks," in its Entirety; Adding Chapter 9.13, "Sale of Fireworks"; and Further Amending Chapter 17.78, "Certificates of Occupancy," by Adding Section 17.78.050, "Temporary Event Permits" (CA)

City Attorney Schwabauer provided a brief overview of the proposed ordinance as set forth in the staff report.

In response to Council Member Hansen, Mr. Schwabauer stated the proposed ordinance applies to safe and sane fireworks only and not anything that shoots in the air. He stated rules will be posted at the stands and provided to purchasers.

In response to Council Member Hansen, Mr. Bartlam stated staff conservatively recommends four stands instead of six, which is based on the one booth for every 10,000 people standard, because the City does not have experience in this realm.

In response to Council Member Hansen, Mr. Schwabauer confirmed that if a group is picked in the annual lottery for two years in a row it must sit out one year before participating again.

In response to Council Member Hansen, Mr. Schwabauer stated the organization must qualify as a state and/or federal charity to participate.

In response to Council Member Nakanishi, Mr. Bartlam stated staff can look into options for publicizing the rules and regulations associated with safe and sane fireworks.

In response to Council Member Nakanishi, Mr. Schwabauer stated the pro rata share is based on actual costs in the reimbursement agreement based on the number of charities participating.

In response to Council Member Nakanishi, Mr. Bartlam stated to date he has not received any negative comments from citizens regarding safe and sane fireworks.

In response to Mayor Pro Tempore Mounce, Mr. Bartlam stated page 10 of the proposed ordinance sets forth the requirements for booth locations including the need for proper curbs and sidewalks.

In response to Council Member Katzakian, Mr. Bartlam stated the booth locations will be limited to certain zoning designations but not to specific streets.

In response to Council Member Katzakian, Mr. Bartlam stated based on recent information he believes there are approximately 300 charities in the City.

The following individuals spoke in support of the proposed ordinance based on potential benefit to the non-profit organizations in the City:

Ron Bendell, Glory Foundation
Richard Jones, Boys and Girls Club
Steven Bojorques, Red Circle
Dennis Revell, TNT Fireworks
Jeff Tracy, Tokay High School Athletics
Robin Rushing
Drew Quagy, Boy Scouts of America
Elizabeth Westfall, Project Thank You
Steve Cooper, Boy Scouts of America

In response to Mayor Johnson, Mr. Schwabauer stated the proposed ordinance allows for joint applications and the State law sets the dates of sale.

In response to Council Member Hansen, Mr. Bartlam stated the City is a little less than 13 square miles.

Mayor Pro Tempore Mounce made a motion, second by Council Member Nakanishi, to introduce Ordinance No. 1844 repealing and re-enacting Lodi Municipal Code Chapter 9.12, "Fires, Firearms, and Fireworks," in its entirety; adding Chapter 9.13, "Sale of Fireworks"; and further amending Chapter 17.78, "Certificates of Occupancy," by adding Section 17.78.050, "Temporary Event Permits" with the caveat that the City permit a total of six booths.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

I-2 Adopt Resolution Ratifying Employment Agreement Entered into Between the City of Lodi and James M. Rodems (CM)

City Manager Bartlam provided a brief overview of the item as set forth in the staff report.

Mayor Pro Tempore Mounce stated she would not be voting in favor of the agreement in light of her previous history of voting against agreements with six-month severance pay clauses.

Elizabeth Westfall spoke in opposition to the proposed item in light of her concerns regarding severance pay clauses.

Ron Bindell spoke in favor of the proposed item in light of private companies and contractors having severance pay clauses.

Mayor Johnson made a motion, second by Council Member Hansen, to adopt Resolution No. 2011-52 ratifying employment agreement entered into between the City of Lodi and James M. Rodems.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Katzakian, Council Member Nakanishi, and Mayor Johnson

Noes: Mayor Pro Tempore Mounce

Absent: None

J. Ordinances - None

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 8:52 p.m.

ATTEST:

Randi Johl
City Clerk