

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, APRIL 15, 2015**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of April 15, 2015, was called to order by Mayor Johnson at 5:30 p.m.

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

Absent: None

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

C-2 Announcement of Closed Session

- a) Conference with Adele Post, Human Resources Manager, and Jordan Ayers, Deputy City Manager (Labor Negotiators), Regarding Lodi City Mid-Management Association, AFSCME General Services and Maintenance & Operators, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, and Lodi Professional Firefighters Pursuant to Government Code §54957.6 (CM)
- b) Pending Litigation: Government Code §54956.9(a); One Case: James Smith v. City of Lodi, U.S. District Court, Eastern District of California, Case No. 2:14-CV-01318-TLN-AC (CA)
- c) Conference with Legal Counsel - Anticipated Litigation - Significant Exposure to Litigation Pursuant to Government Code §§54956.9(d)(2) and 54956.9(e)(1), Two Cases, Shall Not Be Disclosed, Due to Facts and Circumstances Not Yet Known to Potential Plaintiffs (CA)

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 6:37 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 Magdich disclosed the following actions.

Items C-2 (a) and C-2 (b) were discussion and direction given with no reportable action.

In regard to Item C-2 (c), both cases were discussion only with no reportable action.

A. Call to Order / Roll Call

The Regular City Council meeting of April 15, 2015, was called to order by Mayor Johnson at 7:00 p.m.

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

Absent: None

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

B. Presentations

B-1 California Safe Digging Month Proclamation (CLK)

Mayor Johnson presented a proclamation proclaiming April 2015 as California Safe Digging Month in Lodi to Dylan George, Government Relations Representative for Pacific Gas and Electric. Mr. George encouraged the public to dial 811 prior to digging so that PG&E staff can assist with locating water and gas lines to avoid unnecessary damage or injuries.

B-2 Earth Day Proclamation (PW)

Mayor Johnson presented a proclamation proclaiming April 22, 2015, as "Earth Day" in Lodi to Kathy Grant, Watershed Program Coordinator. City Council and the public were invited to celebrate Earth Day with the dedication of the Downtown River-Friendly Demonstration Garden and Blue Heron Bench on April 25, 2015, at 1:00 p.m.

B-3 Receive Presentation on Seward Johnson Sculpture Exhibit (PRCS)

Jennifer Winn, Recreation Manager, provided a PowerPoint presentation showing the 10 sculptures that are part of the Seward Johnson Exhibit that are on display on or near School Street between Elm and Walnut Streets between April 15 and July 15, 2015.

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

Council Member Mounce made a motion, second by Mayor Pro Tempore Chandler, 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 Kuehne, Council Member Mounce, Council Member Nakanishi, Mayor Pro Tempore Chandler, and Mayor Johnson

Noes: None

Absent: None

C-1 Receive Register of Claims in the Amount of \$2,885,680.25 (FIN)

Claims were approved in the amount of \$2,885,680.25.

C-2 Approve Minutes (CLK)

The minutes of March 24, 2015 (Shirtsleeve Session), March 31, 2015 (Shirtsleeve Session), March 31, 2015 (Special Meeting), and April 1, 2015 (Regular Meeting) were approved as written.

C-3 Accept Improvements Under Contract for Wastewater Main Rehabilitation Program, Project No. 6 (PW)

Accepted improvements under the contract for the Wastewater Main Rehabilitation Program, Project No. 6.

C-4 Adopt Resolution Authorizing City Manager to Execute Change Order No. 3 to the Professional Services Agreement with WMB Architects, of Stockton, for Construction Administration Services for City Hall Annex First Floor Phase 2 Interior Remodel Project (\$71,405) (PW)

Adopted Resolution No. 2015-40 authorizing the City Manager to execute Change Order No. 3 to the Professional Services Agreement with WMB Architects, of Stockton, for construction administration services for the City Hall Annex First Floor Phase 2 Interior Remodel Project, in the amount of \$71,405.

C-5 Receive Update on Emergency Condition at White Slough Water Pollution Control Facility Digesters No. 1 and No. 2 (PW)

Received an update on the emergency condition at White Slough Water Pollution Control Facility Digesters No. 1 and No. 2.

C-6 Set Public Hearing for May 6, 2015, to Consider Adoption of the 2015/16 Annual Action Plan for the Community Development Block Grant Program (CD)

Set a Public Hearing for May 6, 2015, to consider adoption of the 2015/16 Annual Action Plan for the Community Development Block Grant Program.

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.

Public comment may only be made on matters within the Lodi City Council's jurisdiction (Government Code Section 54954.3, Lodi City Council Protocol Manual Section 6.3I). The Council cannot take action or deliberate on items that are not on this agenda unless there is an emergency and the need to take action on that emergency arose after this agenda was posted (Government Code Section 54954.2(b)(2)). All other items may only be referred for review to staff or placement on a future Council agenda.

Pauline Meyer spoke in opposition to the recent reduction in the pool hours at Hutchins Street Square, stating that the Friends of the Pool raised \$20,000 to keep the pool and supplies in fine condition and that the reduction in hours and rescheduling of classes is contributing to the loss in participation. She stated that the Hutchins Street Square pool is the only indoor public pool that is heated and that it is one of the few services directed toward seniors.

Ken Ginoulis also expressed opposition to reducing the Hutchins Street Square pool hours, stating that the facility needs a full-time aquatics manager to run and better promote the facility, which he believed would increase revenue and benefit both the City and members of the community.

Paula Herrington expressed opposition to the Hutchins Street Square reduction in pool hours, stating that many seniors receive significant health benefits from swimming and that the current pool attendant is problematic. She proposed the formation of a swimmers advisory council made up of interested swimmers, Parks and Recreation representatives, and a Council Member to meet quarterly to discuss ways to increase attendance and keep the pool open. She suggested that the pool continue with its existing schedule of a 6 a.m. swim time for five days a week for the next six months while the pool users and staff work together to resolve this matter.

Mr. Bayer expressed support for the Hutchins Street Square pool, stating his time in the exercise classes has significantly decreased his recovery time following his surgery. He stated he was thankful for the pool and did not wish to see the hours reduced.

Jennifer Leon stated she travels to Lodi to use the Hutchins Street Square pool regularly and suggested the pool hours be increased. She too expressed support for an aquatics manager to manage and promote the pool.

Cal Unterseher expressed support for the Hutchins Street Square pool, stating that he has an injured knee and cannot walk for exercise and he has been swimming there since 1980 and built a network of friends who use the pool. He urged Council to keep the pool open and suggested a large corporation, such as Wal-Mart or Costco, could help in this endeavor.

Patrick Hutcheson spoke in support of the Hutchins Street Square pool on behalf of his wife who is an active participant in the senior swimming program, stating that an important aspect in the health of seniors is maintaining social relationships and the swim program offers that, as well as physical activity.

Suzanne Platt stated that the Hutchins Street Square pool was also used at one time for children's swim classes, but they were discontinued, and she would like to see the pool remain open for both seniors and children.

Mayor Johnson assured the public that Council and staff heard the public's comments this evening and read the e-mails prior to the meeting and that staff will look into the matter.

City Manager Schwabauer explained that Council is prohibited from discussing the matter as the item was not on the agenda; however, it could be brought back at a later date.

Council Member Mounce requested a presentation at a Shirtsleeve Session from the Parks, Recreation, and Cultural Services Director as to why the Hutchins Street Square pool hours were reduced and the potential of returning swim hours for youth. Mr. Schwabauer pointed out that the City does still offer youth swim classes at other locations.

Council Member Nakanishi expressed the importance of continuing this program for seniors and was in support of discussing the matter further. Council Member Nakanishi stressed the importance of water conservation during the worst drought in California history and reported that total rain fall for Lodi in April was 17 inches.

RECESS

At 7:37 p.m., Mayor Johnson called for a brief recess, and the City Council meeting reconvened at 7:38 p.m.

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

Council Member Mounce reported on her trip to Washington D.C. as the 2nd Vice President of the League of California Cities, at which she lobbied on behalf of California. She attended a speech given by President Obama and met with Senator Diane Feinstein, who seemed to have a clear understanding of the drought in California and water issues. Council Member Mounce reported on the SB16 transportation bill, which has realized significant support in the senate and assembly. If it passes, the bill would add a 10 cent increase in the excise tax on gas and diesel, an increase in vehicle registration fees for all vehicles and for zero-emission vehicles, and other elements for truck and weight fees. The City of Lodi could receive \$1.6 million in road repair dollars, and, although she does not support the bill, this is the best plan to maintain California roads at this time. Further, Ms. Mounce reported that Council held an informative Shirtsleeve Session regarding traffic calming measures and stated that the Police Department is encouraging citizens to participate in social media called "nextdoor," on which neighbors can discuss matters of importance and obtain a sense of the community's needs. She stated she was looking forward to hearing the recommendations from Public Works at a future meeting. Lastly, Ms. Mounce encouraged the public to attend the Homelessness Summit at the Lodi Grape Festival on Thursday, April 16 beginning at 9:30 a.m.

Council Member Kuehne reported that one of the discussions at the San Joaquin Council of Governments (SJCOG) training session was the potential transportation bill and he stated he was pleased to see it was ultimately presented. In addition, SJCOG discussed autonomous driving vehicles, for which Concord has the largest facility, and he stated that some reports indicate these vehicles could be on the street as early as 2017.

Council Member Mounce added that the League of California Cities worked closely with senators to draft a transportation bill that would not devastate cities and communities, but would fix a serious downfall on streets and roads. She confirmed there is a five-year sunset on the bill.

Mayor Johnson also commented on the recent Shirtsleeve Session regarding traffic calming, pointing out that often times it is discovered that residents in the neighborhoods are the ones speeding and people should be aware of that before asking for steps to be taken. Mayor Johnson also encouraged citizens to form Neighborhood Watch groups by contacting the Lodi Police

Partners Program. In regard to the transportation bill, Mayor Johnson reported he recently attended a League meeting at which this was discussed, and everyone in attendance agreed roads and highways were in deplorable condition; however, when asked what the legislature was willing to cut in order to add money to transportation, no one had an answer.

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

None.

G. Public Hearings

G-1 Public Hearing to Consider Adopting Resolution to Vacate the 0 Block of East Vine Street Between Union Pacific Railroad and Sacramento Street (PW)

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 a resolution to vacate the 0 block of East Vine Street between Union Pacific Railroad and Sacramento Street.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the vacation of the 0 block of East Vine Street between Union Pacific Railroad and Sacramento Street. Specific topics of discussion included location; joint request by Lodi Iron Works and the property owner at 900 South Sacramento Street; enhancement to business operations; security improvements to address theft and vandalism; pedestrian crossing at the location; Planning Commission approval on March 11, 2015; appraisal of property; the City's proposition to subtract the cost for additional fencing; and property owners' cost for the vacated street right-of-way.

Mayor Johnson opened the public hearing for public comment.

Kevin Van Steenberg, representing Lodi Iron Works, spoke in support of the request, stating that he and the property owner at 900 South Sacramento Street requested to close this portion of the street because of nuisances, vandalism, and pedestrians crossing the railroad tracks at that unsafe location.

There being no further public comments, Mayor Johnson closed the public hearing.

Council Member Mounce made a motion, second by Mayor Pro Tempore Chandler, to adopt Resolution No. 2015-41 vacating the 0 block of East Vine Street between Union Pacific Railroad and Sacramento Street.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

H. Communications - None

I. Regular Calendar

I-1 Provide Direction to Staff on Request from Reynolds Ranch, Westside, and Southwest Gateway Annexation Projects to Reduce Community Facilities District (CFD) Fees and Reduce Annual CFD Indexing (CM)

City Manager Schwabauer provided information regarding a request from Reynolds Ranch, Westside, and Southwest Gateway Annexation Projects to reduce Community Facilities District (CFD) fees and to reduce annual CFD indexing. The CFD was formed in 2007, which encompassed the new annexations into Lodi post 2007, including Reynolds Ranch, Westside, and Southwest Gateway. Mr. Schwabauer explained that a CFD funds services such as fire,

police, lighting, and landscaping in a new development; not debt, as is the case with a Mello-Roos District. In 2007 when the economy, property values, and interest rates were high, the CFD fee was initially \$600 a month per household on top of a mortgage and property taxes. The market then fell, yet the CFD indexed annually at the greater of the Consumer Price Index or 5 percent, and the CFD increased by 40 percent. Mr. Schwabauer explained that there are options to eliminate the CFD if it grows too large, which would be harmful to the City, and he stated that the three developers have requested the fee be lowered. Because there should be some give on both sides, Mr. Schwabauer recommended that the fee be lowered on condition that the developers lose those vesting rights against the development impact fee program for projects not completed within three years. He stated the request this evening is to direct the City Manager to negotiate within the parameters of this concept, further detailed in the staff report, and return to Council with agreements for approval.

Council Member Mounce expressed appreciation for tying this into the vested tentative map, as she had serious concerns once it was realized that, because of how the vesting tentative map ordinance was written, developers could extend the discount program beyond the three years until such time that it took to complete the development. She expressed support for staff to negotiate this concept.

Council Member Nakanishi stated this was a fairness issue and if nothing was done to address the matter, the interested parties could disband the CFD and the City would lose income. He expressed support for the concept.

Mayor Pro Tempore Chandler made a motion, second by Council Member Kuehne, to authorize staff to negotiate with Reynolds Ranch, Westside, and Southwest Gateway developers to reduce the Community Facilities District (CFD) fees and reduce the annual CFD indexing in exchange for waiver of any rights the developers may have to the 60 percent discount for units not completed within a negotiated timeframe; and to return to Council with the resulting agreements.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

I-2 Provide Direction Regarding Downtown Tree Well Up-Lighting Options and Funding (PW)

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding downtown tree well up-lighting. Specific topics of discussion included a comparison between rope lights and light-emitting diode (LED) light retrofit kits and up-light/receptacle relocations. Mr. Sandelin stated that, following the February 24, 2015 Shirtsleeve and feedback from downtown owners, reconsideration was given to the option of installing rope lights on the downtown trees. Instead, staff researched the feasibility of replacing the existing system and purchased an LED retrofit lamp, which was installed at 115 South School Street as a demonstration. The cost to retrofit is \$1,700 per light and includes labor, materials, and replacement of light housing, which may not be necessary at every location, for a total of \$237,000 for 140 uplights. The project could potentially be funded by Electric Utility Public Benefits Funds. If Council supported the direction, staff would return with plans and specifications for Council approval.

In response to Mayor Pro Tempore Chandler, Mr. Sandelin estimated the project could be completed within three to six months and the LED lights will be an improvement.

John Della Monica stated that a majority of the downtown merchants support this direction because it improves aesthetics and increases visibility for visitors and business owners. In response to Council Member Mounce, he stated he prefers the option with the LED uplight retrofit.

Pat Patrick, representing the Lodi District Chamber of Commerce, agreed that the downtown

merchants prefer the LED uprights over the rope lights and he expressed his support for it as well.

Council Member Mounce stated she did not prefer either option and preferred instead that the trees be threaded with string lights, similar to Christmas lights, because of the aesthetics and the lower cost.

In response to Council Member Mounce, Mr. Sandelin stated that the lifespan of the housing light would be 20 to 30 years and the LED bulb would be roughly 10 years.

In response to Mayor Pro Tempore Chandler, Mr. Sandelin stated that the high-efficiency LED lights would qualify the project for Public Benefit Funds, but the string lights would not; however, the string lights can be strung in the branches seasonally, which would require repair to the receptacles and control by time clocks and pedestals. He stated either the City or downtown merchants could do those lights, which are relatively inexpensive.

Council Member Kuehne stated he would like to learn more about the Public Benefits Fund and that, even though he prefers the look of string lights, he supported pursuing the LED upright retrofit because it would be a shame not to invest in infrastructure that was put into place previously but set aside for lack of maintenance.

In response to Council Member Mounce, Mr. Sandelin stated that the LED upright retrofit option would provide flexibility to shine the uprights solely, the string lights alone, or both at the same time; therefore, during the Christmas parade, the uprights could be turned off so only the string lights provide aesthetically-pleasing seasonal lighting.

Mr. Schwabauer stated that, in order to do both types of lights, he would like to see assistance from the downtown merchants. Public Benefits Funds would pay for the light fixture, but he does not want to utilize those funds continually as the bulbs die or the trees outgrow the string lights.

Council Member Nakanishi expressed support for the LED upright retrofit option.

Mayor Johnson expressed his disappointment in the lack of participation by downtown merchants on this topic. He expressed support for the uprights and agreed with the City Manager that, if the City makes this commitment, he would expect the downtown merchants and property owners to participate in future costs to fix or replace the lights. He expressed his willingness to utilize Public Benefits Funds to fix the problem now, but those funds should not be used repeatedly in one specific area.

I-3 Adopt Resolution Approving Memorandum of Understanding Between the City of Lodi and the Lodi City Mid-Management Association for the Period January 1, 2015 through December 31, 2017 and Appropriating Funds (\$38,880) (CM)

Deputy City Manager Jordan Ayers provided a presentation regarding the Memorandum of Understanding with the Lodi City Mid-Management Association. Specific topics of discussion included three-year agreement beginning 2015 through December 31, 2017; cost of living adjustment restoration of past concessions for a total of 7 percent (3 percent in 2015, 2 percent in 2016, 2 percent in 2017); special provision for special assignment pay of 10 percent; temporary upgrade pay of 10 percent; the ability to cash out full 80 hours of Administrative Leave; and provision to reopen discussion regarding medical payments in the event medical premium costs increase by 20 percent or more in any given year. Mr. Ayers stated this group has not had a pay increase since 2007/08; the employees helped the City survive the recession; and this is a small step in restoring those concessions.

In response to Mayor Johnson, Mr. Ayers stated that the City is part of the California Public Employees Retirement System (Cal-PERS) for medical coverage; Cal-PERS sets up coverage areas; and Lodi is in the Bay Area sector as opposed to the Sacramento or Southern California region. The lowest cost medical is tied to the geographical area into which the City is incorporated.

City Manager Schwabauer explained to the public that the City entered into a recession in 2008 and received \$38 million in revenue rather than the anticipated \$45 million. City employees were immediately requested to cut their pay, which is difficult when there are existing bargaining contracts, and they gave back \$25 million that was returned to services for the citizens of Lodi. Currently, the general fund reserve has increased to \$9 million, and employees continue to take cuts. Mr. Schwabauer stated that the intention was not to build the reserves on the employees and leave them with a 7 to 9 percent pay cut in perpetuity, which is the reason he can stand behind the recommendation to return the favor and restore some of the concessions that employees took on behalf of the City.

Council Member Mounce concurred, stating that the City was able to survive the recession because employees gave up a significant amount. She further stated that this is not a raise, but a partial return of the concessions employees gave to the City.

Gary Wiman, President of the Lodi City Mid-Management Association, thanked his negotiation team, City negotiating team, and the City Council for this agreement. He appreciated the term that this is a partial return of concessions and that it has not been forgotten that employees contributed to keep the City in a better position.

Ed Miller stated he did not disagree with the action, but he was opposed to the timing, particularly on the heels of the Council goal setting session, during which it was clearly demonstrated that the City lacks resources to fund the browned-out fire engine, cameras for the Police Department, and parks improvements. He estimated that, with the remaining six groups, the City would pay another \$3 to \$4 million in salaries. Mr. Miller stated that the private sector likewise took a hit in the recession and has not yet recovered, which explains why cities cannot generate revenue in the sluggish economy. He further questioned how the significant Cal-PERS hit in 2017 will affect the City if salary increases are given now for eight bargaining groups for three years each.

Mayor Pro Tempore Chandler thanked Mr. Wiman for bargaining in good faith and stated that the three-year deal will save both sides time and effort.

Council Member Mounce made a motion, second by Council Member Kuehne, to adopt Resolution No. 2015-42 approving the Memorandum of Understanding between the City of Lodi and the Lodi City Mid-Management Association for the period of January 1, 2015 through December 31, 2017 and appropriating funds in the amount of \$38,880.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

I-4 Adopt Resolution Approving Revisions to Compensation and Other Benefits for Confidential Employees for the Period January 1, 2015 through December 31, 2017 and Appropriating Funds (\$13,000) (CM)

Deputy City Manager Jordan Ayers provided a presentation regarding revisions to compensation and other benefits for the Confidential employees. Specific topics of discussion included bringing the Confidential group in accordance with its corresponding representative units; similar agreement to the Lodi City Mid-Management Association; and cost of living adjustment restoration of 7 percent (3 percent retroactive to January 1 for 2015, 2 percent in 2016, and 2 percent in 2017).

Council Member Nakanishi assured the public that there is a fiscally-sound plan in place and explained that the desire is to negotiate long-term contracts.

City Manager Schwabauer stated that staff has a fiscal model, which tracks expenses and revenues, including costs and projections associated with the California Public Employees

Retirement System (Cal-PERS), over a longer period of time than the three-year contracts. He stated that the City has outperformed the budget, and expects to once again do so, which makes it difficult to deny pay raises to employees. He stated that negotiations are currently on-going with several groups, and he cannot control the timing on when agreements will be reached. He feels comfortable that the City has the ability to pay for the salary increases; however, if another recession were to hit, employees would be asked again to make concessions, and he believed that they would be willing to do so, assuming the City repaid them now for their previous assistance.

Mayor Pro Tempore Chandler made a motion, second by Council Member Kuehne, to adopt Resolution No. 2015-43 and Resolution No. 2015-44 approving revisions to compensation and other benefits for Confidential Mid-Management Employees and Confidential General Services Employees, respectively, for the period of January 1, 2015 through December 31, 2017 and appropriating funds in the amount of \$13,000.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

J. Ordinances - None

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 8:36 p.m.

ATTEST:

Jennifer M. Ferraiolo
City Clerk