

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, APRIL 20, 2011**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of April 20, 2011, was called to order by Mayor Johnson at 5:30 p.m.

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

Absent: Mayor Pro Tempore Mounce

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) Pending Litigation: Government Code Section 54956.9(a); One Case: Ashley St. Clair, Individually and as Guardian Ad Litem for Jose Vargas, Jr., a Minor v. Robert Lee Hindmarsh, City of Lodi, et al., San Joaquin County Superior Court, Case No. 39-2011-00260663-CU-PA-STK

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) and C-2(b) were discussion only with no reportable action.

A. Call to Order / Roll call

The Regular City Council meeting of April 20, 2011, was called to order by Mayor Johnson at 7:00 p.m.

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

Absent: Mayor Pro Tempore Mounce

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

B. Presentations

B-1 For the Health of It Day Proclamation

Mayor Johnson presented a proclamation to Michael Perry, Event Coordinator with Lodi Memorial Hospital Foundation, proclaiming Saturday, May 7, 2011, as "For the Health of It Day" in the City of Lodi.

B-2 Acknowledgement of Police Officers Recognized by Mothers Against Drunk Drivers for Outstanding Efforts in Driving Under the Influence Arrests (PD)

Interim Police Chief Ray Samuels acknowledged the following police officers who were recognized by Mothers Against Drunk Driving for outstanding efforts in driving under the influence (DUI) arrests: Shad Canestrino with 39 DUI arrests in 2010; Eric Versteeg with 29 DUI arrests; and Ryan LaRue with 29 DUI arrests.

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

Mayor Johnson made a motion, second by Council Member 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 Hansen, Council Member Katzakian, Council Member Nakanishi, and Mayor Johnson

Noes: None

Absent: Mayor Pro Tempore Mounce

C-1 Receive Register of Claims in the Amount of \$8,631,586.40 (FIN)

Claims were approved in the amount of \$8,631,586.40.

C-2 Approve Minutes (CLK)

The minutes of March 16, 2011 (Regular Meeting), April 5, 2011 (Shirtsleeve Session), April 6, 2011 (Regular Meeting), April 12, 2011 (Shirtsleeve Session), and April 12, 2011 (Special Meeting) were approved as written.

C-3 Approve Request for Proposals and Authorize Advertisement for Final Design and Construction of Municipal Service Center Transit Vehicle Maintenance Facility Solar Power Project (PW)

Approved the request for proposals and authorized advertisement for final design and construction of Municipal Service Center Transit Vehicle Maintenance Facility Solar Power Project.

C-4 Adopt Resolution Accepting Cable Rejuvenation for English Oak Subdivision, Phase One, Under Contract with UtilX, Inc. (EUD)

Adopted Resolution No. 2011-53 accepting cable rejuvenation for English Oak Subdivision, Phase One, under contract with UtilX, Inc.

C-5 Adopt Resolution Authorizing the City Manager to Execute Contract for Maintenance of Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 for Fiscal Year 2011/12 with TruGreen LandCare, LLC, of Rancho Cordova (\$24,949.60) (PW)

Adopted Resolution No. 2011-54 authorizing the City Manager to execute contract for Maintenance of Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 for Fiscal Year 2011/12 with TruGreen LandCare, LLC, of Rancho Cordova, in the amount of \$24,949.60.

C-6 Adopt Resolution Authorizing the City Manager to Execute Professional Services Agreement with Neil O. Anderson & Associates, of Lodi, for Construction Testing and Inspection Services and Appropriating Funds (\$50,000) (PW)

Adopted Resolution No. 2011-55 authorizing the City Manager to execute professional services agreement with Neil O. Anderson & Associates, of Lodi, for construction testing and inspection services and appropriating funds in the amount of \$50,000.

C-7 Adopt Resolution Authorizing the City Manager to Execute Contract Change Order with Diede Construction, Inc., of Woodbridge, for Additional Work Related to the Central Plume PCE/TCE Remedial Measures Project (\$174,966) and Appropriating Funds (\$150,000) (PW)

Adopted Resolution No. 2011-56 authorizing the City Manager to execute contract change order with Diede Construction, Inc., of Woodbridge, for additional work related to the Central Plume PCE/TCE Remedial Measures Project in the amount of \$174,966 and appropriating funds in the amount of \$150,000.

C-8 Adopt Resolution Authorizing the City Manager to Terminate Lodi's Participation in the Seattle City Light Capacity and Energy Exchange Third Phase Agreement (EUD)

In response to Council Member Hansen, Mr. Bartlam stated the other parties to the agreement are in the same position as Lodi whereby they must also provide seven years notice per the contract terms to terminate their participation.

In response to Council Member Hansen, Electric Utility Director Liz Kirkley confirmed energy is exchanged during peak times and the specifics of the exchange including time and amount are set forth in the agreement.

Council Member Hansen made a motion, second by Mayor Johnson, to adopt Resolution No. 2011-59 authorizing the City Manager to terminate Lodi's participation in the Seattle City Light Capacity and Energy Exchange Third Phase Agreement.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Pro Tempore Mounce

C-9 Adopt Resolution Authorizing the City Manager to Execute a Novation Agreement with JP Morgan Ventures Energy and Sempra Energy Trading LLC Transferring Interest in the Power Purchase Sales and Enabling Agreement Dated October 17, 2007, with Administration by the Electric Utility Director (EUD)

Adopted Resolution No. 2011-57 authorizing the City Manager to execute a Novation Agreement with JP Morgan Ventures Energy and Sempra Energy Trading LLC transferring interest in the Power Purchase Sales and Enabling Agreement dated October 17, 2007, with administration by the Electric Utility Director.

C-10 Adopt Resolution Recommending the California Citizens Redistricting Commission Place San Joaquin County within One Congressional, Two Assembly, and One State Senate District (CM)

Adopted Resolution No. 2011-58 recommending the California Citizens Redistricting Commission place San Joaquin County within one Congressional, two Assembly, and one State Senate District.

C-11 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Opposition to AB 438 - County Free Libraries: Withdrawal (Williams) (CM)

Authorized the Mayor, on behalf of the City Council, to send a letter of opposition to AB 438 - County Free Libraries: Withdrawal (Williams).

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.

Janet Troughton spoke in regard to her concerns about the costs associated with water meter installation and the availability of financial aid.

Vincent Sayles spoke in regard to his concerns about the Mokelumne River.

Robin Rushing spoke in regard to his concerns about water meter installation and the costs associated with the same.

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

Council Member Nakanishi spoke in regard to the United States rating decline and the trend prohibiting and/or disbanding medical marijuana dispensaries.

Council Member Hansen reported on his attendance at the San Joaquin Council of Governments One Voice trip in Washington D.C. He specifically discussed transportation and transit dollars, Community Development Block Grant funding, and construction in San Joaquin County including Highway 12 improvements.

Mayor Johnson spoke in regard to the skate park crime and reward and requested staff bring back for Council consideration a policy to respond to requests from the League of California Cities.

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

None.

G. Public Hearings

G-1 Public Hearing to Approve the Final 2011/12 Action Plan for the Community Development

Block Grant Program (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 Johnson called for the public hearing to consider approving the Final 2011/12 Action Plan for the Community Development Block Grant (CDBG) Program.

City Manager Bartlam briefly introduced the subject matter of the CDBG public hearing.

Neighborhood Services Manager Joseph Wood provided a PowerPoint presentation regarding the 2011/12 CDBG public hearing. Specific topics of discussion included the initial public hearing, public review and comment period, revised estimated allocation of \$675,000, City projects and services, community based organization projects and services, and recommended action.

In response to Ann Cerney, Public Works Director Wally Sandelin stated Option 3, Phase I, of the Grape Bowl improvements was consistent with the transition plan, was estimated to cost \$1.4 million, and was approved at the January 5, 2011, City Council meeting.

Council Member Hansen made a motion, second by Council Member Katzakian, to adopt Resolution No. 2011-60 approving the Final 2011/12 Action Plan for the Community Development Block Grant Program.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Pro Tempore Mounce

G-2 Public Hearing to Consider the Following Items: a) Certification of the South Hutchins Annexation Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program as Adequate Environmental Documentation for the Proposed South Hutchins Annexation Project; b) Approve the South Hutchins Annexation Project, which Includes an Annexation and Pre-Zoning; and c) Direct Staff to Prepare and Submit an Annexation Application to San Joaquin Local Agency Formation Commission (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 Johnson called for the public hearing to consider the following items: a) Certification of the South Hutchins Annexation Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program as adequate environmental documentation for the proposed South Hutchins Annexation Project; b) Approve the South Hutchins Annexation Project, which includes an annexation and pre-zoning; and c) direct staff to prepare and submit an annexation application to San Joaquin Local Agency Formation Commission.

City Manager Bartlam provided a brief PowerPoint presentation regarding the proposed South Hutchins annexation project. Specific topics of discussion included mitigated negative declaration, annexation, rezoning and rezoning, location of property, California Environmental Quality Act Guidelines, mitigated negative declaration process, General Plan map and previous approval, annexation priority map, sphere of influence, site plan for phase one, landscape plan for phase one, elevation for phase one, and Local Agency Formation Commission approval process.

Council Member Hansen, Council Member Katzakian, and Mayor Johnson disclosed ex parte communications per Resolution 2006-31.

Mayor Johnson opened the public hearing to receive public comment.

The following individuals spoke in opposition to the proposed annexation based on their concerns regarding the location of the project, in-fill options, infrastructure costs, and the need to preserve agricultural farmland: Dennis Silber, Judith Halstead, Vincent Sayles, Colette Kaehler, John Spagnola, Liz Nicolini, Alfred Nicolini, Joseph Nicolini, Paul Nicolini, Pat Underhill, Ed Miller, Donna Mier, and Angela Nicolini.

The following individuals spoke in support of the proposed annexation based on the overall benefit of the development to the community: Carl Fink, Mike Carouba, Jerry Fry, and Pat Patrick.

Mayor Johnson closed the public hearing after receiving no further public comment.

In response to Council Member Nakanishi, Mr. Schwabauer stated the project is backed by a full Environmental Impact Report, which was completed as a part of the General Plan adoption, and the project was included in the General Plan.

In response to Council Member Nakanishi, Mr. Bartlam stated the City is not putting any money into the project and does not have a history of subsidizing private development.

In response to Council Member Nakanishi, Mr. Bartlam stated mitigation measures require that any development project converting farmland place a conservation easement over a like amount of acreage.

Council Member Hansen made a motion, second by Council Member Katzakian, to adopt Resolution No. 2011-61 certifying the Final Mitigated Negative Declaration and adopting Mitigation Monitoring and Reporting Program for the South Hutchins Annexation Project; State Clearing House No. 2010112055; and to adopt Resolution No. 2011-62 approving the request of Michael Carouba, on behalf of Fink LL., for approval of the proposed South Hutchins Annexation Project, adopting a pre-zoning designation for the annexation, and directing staff to prepare and submit an application to the San Joaquin County Local Agency Formation Commission.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Pro Tempore Mounce

H. Communications

H-1 Appointments to the Lodi Improvement Committee and Senior Citizens Commission and Re-Post for Remaining Vacancy on the Lodi Improvement Committee (CLK)

Mayor Johnson made a motion, second by Council Member Hansen, to make the following appointments and to direct the City Clerk to re-post for the remaining vacancy on the Lodi Improvement Committee:

APPOINTMENTS:

Lodi Improvement Committee

Jim Finch, term to expire March 1, 2014

Timothy Litton, term to expire March 1, 2014

Senior Citizens Commission

Pat Hill, term to expire December 31, 2013

Susan Klusman, term to expire December 31, 2014

POSTING:

Lodi Improvement Committee

Reyes Jaramillo, term to expire March 1, 2011

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Pro Tempore Mounce

I. Regular Calendar

I-1 Adopt Resolution Approving the Northern California Power Agency Natural Gas Program Agreement and Authorizing Execution by the City Manager and Administration by the Electric Utility Director (EUD)

City Manager Bartlam briefly introduced the subject matter of the Northern California Power Agency (NCPA) gas purchase program.

Electric Utility Director Liz Kirkley and NCPA Supervisor Tom Lee provided a PowerPoint presentation regarding the NCPA gas purchase program. Specific topics of discussion included requirements for gas purchase programs, load coverage by resource, market view, hedge plan decision concepts and components, discretionary factors and logic, and the proposed recommended action.

In response to Mayor Johnson, Mr. Lee stated the City's designated representatives will need to ensure that the City and NCPA policies are consistent with one another and exceptions could be requested for discrepancies.

In response to Mayor Johnson, Ms. Kirkley stated the purchase forward policy for electric is three years. Mr. Bartlam confirmed NCPA is limited for Lodi purchases for three years as well.

In response to Council Member Hansen, Mr. Lee stated the energy crisis also involved gas in that Enron was in all commodities including gas. He stated other factors included deregulation and an insufficient State model.

In response to Council Member Hansen, Mr. Lee stated gas has been in the \$4 range since 2008.

In response to Council Member Nakanishi, Mr. Lee stated the smarter the City is at buying gas the lower the cost will be of electricity for the new plant.

In response to Council Member Hansen, Mr. Lee stated the price for that day and time cannot be purchased next year at that amount.

In response to Council Member Hansen, Mr. Lee stated under current hedged conditions it is good to buy ahead.

In response to Mayor Johnson, Mr. Lee stated the Legislature remains undecided on offset

responsibility with respect to generating offsets versus buying offsets.

In response to Council Member Katzakian, Mr. Lee stated bio gas is good to run through the plant in that it gets through the pipeline, it is burnable, and has zero emissions.

In response to Council Member Katzakian, Mr. Lee stated excess supply could be sold on the market if it is not needed to run the plant.

In response to Council Member Katzakian, Mr. Lee stated the electricity market does not care about variable prices and it is only the current market price that matters because excess hydro will push the price down.

In response to Council Member Hansen, Mr. Lee stated the City would need to own or rent storage for excess to be sold at market.

In response to Mayor Johnson, Mr. Lee stated it only takes a week to get the authorization and a request for proposals could take less.

In response to Mayor Johnson, Mr. Lee stated if someone pulls out the security account could be used toward the payment although each participant must also have three months of operating reserves for all expenses.

In response to Mayor Johnson, Mr. Lee stated the City cannot withdraw immediately in that there is a six-month notice requirement and obligations toward already made purchases would need to be met.

In response to Council Member Nakanishi, Mr. Lee stated this program allows the City to buy out more into the future than we have the ability to do now for the Steam Injected Gas Turbine (STIG) unit.

In response to Council Member Nakanishi, Mr. Lee stated as an alternative to the NCPA pool the City could hire someone to purchase gas in-house.

In response to Council Member Katzakian, Mr. Lee stated the new plant will be the first to require such high levels of gas and NCPA can do the program because it is similar to the electricity program.

In response to Council Member Katzakian, Mr. Lee stated if the plant goes down for some reason the gas can be sold and there is also a call option.

In response to Council Member Katzakian, Mr. Lee stated Lodi remains a part of the STIG plant.

Council Member Hansen made a motion, second by Council Member Katzakian, to adopt Resolution No. 2011-63 approving the Northern California Power Agency Natural Gas Program Agreement and authorizing execution by the City Manager and administration by the Electric Utility Director.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Pro Tempore Mounce

I-2 Adopt Resolution Approving Updated Fees for Access and Use at Lodi Lake (PR)

Parks, Recreation and Cultural Services Director James Rodems provided a brief presentation regarding the proposed fee update for access and use of Lodi Lake Park as set forth in the staff report.

In response to Council Member Hansen, Mr. Rodems stated the senior and disabled rates for weekends will change making all seven days consistent.

In response to Mayor Johnson, Mr. Rodems stated most senior activity takes place in the mornings before the gate is in operation and the rates affect vehicular entrance only.

In response to Council Member Hansen, Mr. Rodems stated revenues are estimated by total usage and not broken down by age groups.

In response to Council Member Hansen, Mr. Rodems stated some minimal rate and program changes have already been made.

In response to Mayor Johnson, Mr. Rodems confirmed youth baseball has gone up approximately 30% since 2003.

Mayor Johnson made a motion, second by Council Member Hansen, to adopt Resolution No. 2011-64 approving updated fees for access and use at Lodi Lake.

VOTE:

The above motion carried by the following vote:

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

Noes: Council Member Nakanishi

Absent: Mayor Pro Tempore Mounce

J. Ordinances

J-1 Take the Following Actions with Regard to Sale of Fireworks: a) Adopt Ordinance No. 1844 Entitled, "An Ordinance of the City Council of the City of Lodi Repealing and Re-Enacting Lodi Municipal Code Chapter 9.12 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"; and b) Adopt Resolution Establishing Cost Recovery Fee Schedule for Fireworks Sales Permits

City Attorney Schwabauer provided a brief presentation regarding the proposed ordinance and resolution adoption regarding fireworks as set forth in the staff report and related blue sheet.

Council Member Hansen made a motion, second by Council Member Katzakian, (following reading of the title) to waive reading of the ordinance in full and adopt and order to print Ordinance No. 1844 entitled, "An Ordinance of the City Council of the City of Lodi Repealing and Re-Enacting Lodi Municipal Code Chapter 9.12 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,'" which was introduced at a regular meeting of the Lodi City Council held April 6, 2011.

VOTE:

The above motion carried by the following vote:

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

Noes: None
Absent: Mayor Pro Tempore Mounce

Mayor Johnson made a motion, second by Council Member Katzakian, to adopt Resolution No. 2011-65 establishing Cost Recovery Fee Schedule for Fireworks Sales Permits.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Pro Tempore Mounce

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 11:00 p.m.

ATTEST:

Randi Johl
City Clerk