

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, MAY 6, 2015**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of May 6, 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, Deputy City Attorney Fukasawa, 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 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) Threatened Litigation: Government Code §54956.9(b); One Case: Potential Suit by Michael Ryall against City of Lodi Based on Personal Injury (CA)
- c) Actual Litigation: Government Code §54956.9; One Application; Ronald Heberle v. City of Lodi; WCAB Case No. ADJ8900613 - 6/15/08 (CM)

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 Deputy City Attorney Fukasawa disclosed the following actions.

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

Item C-2 (c) was not discussed.

A. Call to Order / Roll Call

The Regular City Council meeting of May 6, 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, Deputy City Attorney Fukasawa, and City Clerk Ferraiolo

B. Presentations

B-1 Bike Month / Bike to Work Week Proclamation (PW)

Mayor Johnson presented a proclamation to Julia Tyack, Transportation Planner, and Kari McNickle, Regional Planner with the San Joaquin Council of Governments and representative of the San Joaquin Bicycle Coalition, proclaiming the month of May 2015 as Bike Month and May 14, 2015, as Bike to Work Day in Lodi. Ms. McNickle announced that the City of Lodi is hosting a Bike to Work Day for all Lodi residents and City employees on Thursday, May 14 at 6:30 a.m. at the Veteran's Plaza, at which the City Manager will lead the participants on a bike tour through town. The event will include food, beverages, give away prizes, and a raffle for \$500 toward a bike shop of choice. She encouraged those interested to view the website at [www.valleybikecommute.com](http://www.valleybikecommute.com).

B-2 National Public Works Week Proclamation (PW)

Mayor Johnson presented a proclamation to Charlie Swimley, Deputy Public Works Director/City Engineer, proclaiming May 18-24, 2015, as National Public Works Week in Lodi. Mr. Swimley stated this year's theme is "Building for Today and Planning for Tomorrow" and recognized the employees of the Public Works Department, all of whom played a role in preparing for the upcoming Amgen tour by trimming trees, painting traffic markers, and cleaning sidewalks. Further, Mr. Swimley announced that the Surface Water Treatment Plant was recognized for outstanding plant operations and maintenance and exemplary membrane treatment plant performance at the annual Southwest Membrane Treatment Symposium. Mr. Swimley acknowledged Water Plant Superintendent Andrew Richle and his crew for their outstanding performance in operating the plant.

ANNOUNCEMENT

Mayor Johnson announced that the issue regarding the Amgen event agreement was resolved; therefore, the special meeting scheduled for later in the evening would be cancelled.

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

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

Noes: Council Member Mounce, and Council Member Nakanishi

Absent: None

C-1 Receive Register of Claims in the Amount of \$4,484,629.48 (FIN)

Claims were approved in the amount of \$4,484,629.48.

C-2 Approve Minutes (CLK)

The minutes of April 7, 2015 (Shirtsleeve Session), April 14, 2015 (Shirtsleeve Session), April 14, 2015 (Special Meeting), April 15, 2015 (Special Meeting), and April 15, 2015 (Regular Meeting) were approved as written.

C-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Shady Acres Pump Station Trash Handling Project (PW)

Approved plans and specifications and authorized advertisement for bids for the Shady Acres Pump Station Trash Handling Project.

C-4 Approve Plans and Specifications and Authorize Advertisement for Bids for 2015 Pavement Surface Treatment Project, Various Streets (PW)

Approved plans and specifications and authorized advertisement for bids for the 2015 Pavement Surface Treatment Project, Various Streets.

C-5 Adopt Resolution Authorizing Purchase of Hydrel LED Up-Light Fixtures from Consolidated Electrical Distributors, Inc., of Lodi, for School Street Lighting and Appropriating Funds (\$130,000) (PW)

Adopted Resolution No. 2015-45 authorizing the purchase of Hydrel light emitting diode (LED) up-light fixtures from Consolidated Electrical Distributors, Inc., of Lodi, for School Street lighting and appropriating funds in the amount of \$130,000.

C-6 Adopt Resolution Authorizing Purchase of Ultra Violet Disinfection System Equipment for the White Slough Water Pollution Control Facility from D.C. Frost Associates, Inc. (\$78,000) (PW)

Adopted Resolution No. 2015-46 authorizing the purchase of Ultra Violet disinfection system equipment for the White Slough Water Pollution Control Facility from D.C. Frost Associates, Inc., in the amount of \$78,000.

C-7 Adopt Resolution Awarding Contract for Lodi Lake Park - Wading Pool Resurfacing Improvements to Dave Gross Enterprises, Inc., dba Adams Pool Specialties, of Sacramento (\$13,385) and Appropriating Funds (\$16,000) (PW)

Adopted Resolution No. 2015-47 awarding the contract for the Lodi Lake Park - Wading Pool Resurfacing Improvements to Dave Gross Enterprises, Inc., dba Adams Pool Specialties, of Sacramento, in the amount of \$13,385, and appropriating funds in the amount of \$16,000.

C-8 Accept Improvements Under Contract for White Slough Water Pollution Control Facility Control Building Remodel and Addition Project (PW)

Accepted the improvements under the contract for the White Slough Water Pollution Control Facility Control Building Remodel and Addition Project.

C-9 Adopt Resolution Authorizing City Manager to Execute Service Maintenance Agreement with Sungard Public Sector, Inc., of Lake Mary, Florida (\$143,199.24) (PD)

Adopted Resolution No. 2015-48 authorizing the City Manager to execute a Service Maintenance Agreement with Sungard Public Sector, Inc., of Lake Mary, Florida, in the amount of \$143,199.24.

C-10 Adopt Resolution Authorizing City Manager to Execute Agreement with County of San Joaquin for Automated Message Switching System and Criminal Justice Information System Access (\$20,038) (PD)

Adopted Resolution No. 2015-49 authorizing the City Manager to execute an agreement with County of San Joaquin for the Automated Message Switching System and Criminal Justice Information System Access, in the amount of \$20,038.

C-11 Adopt Resolution Authorizing City Manager to Execute Lease Agreement Renewal for Fire Station No. 2 with Design Space Modular Buildings, Inc., of Dixon (\$46,506) (PW)

Adopted Resolution No. 2015-50 authorizing the City Manager to execute a Lease Agreement Renewal for Fire Station No. 2 with Design Space Modular Buildings, Inc., of Dixon, in the amount of \$46,506.

C-12 Adopt Resolution Approving Grant Funding Request for the White Slough Water Pollution Control Facility Storage Expansion Project (PW)

Adopted Resolution No. 2015-51 approving the grant funding request for the White Slough Water Pollution Control Facility Storage Expansion Project.

C-13 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-14 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Opposition for SB 608 - The Right to Rest Act (Liu) (CLK)

Council Member Mounce requested to make comments on Items C-14 and C-15 relating to the letters of opposition and support.

Council Member Mounce stated that these letters were urgent and it was her understanding that the Protocol Manual allowed for the Mayor to sign the letters with a follow-up informational item on the agenda. Ms. Mounce stated she questioned the City Attorney on what the policy allows, and the response she received was that such letters required Council approval, which she believed to be an incorrect assessment. City Manager Schwabauer stated staff would review the policy.

Mayor Johnson stated his understanding was that prior Council approval was necessary on letters of support and opposition.

Council Member Mounce stated that she believed the practice has been to send the letter immediately following the request of the League of California Cities, after which the matter is placed on the Council agenda for informational purposes.

Mayor Pro Tempore Chandler stated the committee hearing on SB 608 was April 7 and inquired on the outcome of the bill, to which Council Member Mounce stated that the item did not get out of committee, it will be brought back, and the letters are still necessary. She stated that a majority of these letters are extremely urgent and cannot wait until the next Council meeting for action, adding that the City of Lodi needs to weigh in on these issues independent from the League.

Mayor Johnson stated there appears to be differing interpretations of the policy and that the policy should be reviewed to ensure Council is following it appropriately.

Council Member Mounce requested the City Clerk provide Council with the minutes at which the policy was amended regarding League communications.

Council Member Nakanishi stated that he would not support action on the letters because his concern is that he does not completely agree with each piece of legislation, adding that his preference is to have the Mayor sign the letters immediately.

Authorized the Mayor, on behalf of the City Council, to send a letter of opposition for SB 608 - The Right to Rest Act (Liu).

C-15 Authorize the Mayor, on Behalf of the City Council, to Send Letters of Support for AB 1335 - Building Homes and Jobs Act (Atkins) and AB 35 - Low-Income Housing Tax Credits (Chiu and Atkins) (CLK)

Authorized the Mayor, on behalf of the City Council, to send letters of support for AB 1335 - Building Homes and Jobs Act (Atkins) and AB 35 - Low-Income Housing Tax Credits (Chiu and Atkins).

C-16 Receive Report Regarding Final Costs for the November 4, 2014, General Municipal Election (CLK)

Received a report regarding the final costs for the November 4, 2014, General Municipal Election.

C-17 Set Public Hearing for June 17, 2015, to Consider Adopting Resolution Setting Pre-Approved Engineering News Record Adjustment Index for Wastewater Rates for Residential, Commercial, and Industrial Customers (PW)

Set a public hearing for June 17, 2015, to consider adopting a resolution setting pre-approved Engineering News Record adjustment index for wastewater rates for residential, commercial, and industrial customers.

C-18 Adopt Resolution Rejecting All Bids, Approving Specifications, and Authorizing Re-Advertisement for Bids for 2015/16 Landscape Maintenance of Miscellaneous Areas and Lodi Consolidated Landscape Assessment District No. 2003-1 and 2015/16 Transit Station Landscape Maintenance (PW)

Adopted Resolution No. 2015-52 rejecting all bids, approving specifications, and authorizing re-advertisement for bids for the 2015/16 Landscape Maintenance of Miscellaneous Areas and Lodi Consolidated Landscape Assessment District No. 2003-1 and 2015/16 Transit Station Landscape Maintenance.

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.

Joe Williams with the Utah Ballroom Dance Company announced that Dancing with the Lodi Stars will take place at Hutchins Street Square on Friday, May 8 at 8 p.m. Six local contestants will be paired with professional dancers to compete for a trophy. He encouraged people to attend, stating that tickets can be purchased at the Hutchins Street Square box office or online at [www.loditickets.com](http://www.loditickets.com). City Manager Schwabauer added that one of the contestants will be Lodi Fire Battalion Chief Brad Doell.

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

Council Member Mounce reported on the League of California Cities Legislative Action Days last week in Sacramento, at which council members and mayors met with legislators to discuss important issues affecting California cities. The primary message sent to legislators was the importance of local control and protecting cities against unfunded State mandates. Further, Ms. Mounce pointed to the March 18 Council meeting, at which Council received legislative communications as an informational item, rather than for approval, and she looked forward to hearing the reason behind the policy change. City Manager Schwabauer stated it was likely a misunderstanding, and staff will look into the matter.

Council Member Kuehne reported on the San Joaquin Council of Governments' OneVoice trip to Washington, D.C., at which attendees met with several legislative representatives to lobby for long-term funding for highways. In addition, he learned that the Stockton airport is working with China to import and export goods from the Stockton Metropolitan Airport and is seeking funding to improve its runways.

Council Member Nakanishi reported that the funding for the Veterans clinic at the county hospital was cut; however, Representative Jeff Denham is working with Senator Diane Feinstein to reinstate the funding in the Senate budget, and he is hopeful the clinic will be funded.

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

None.

G. Public Hearings

G-1 Public Hearing to Consider Adopting a Resolution Approving the 2015/16 Annual 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 adopting a resolution approving the 2015/16 Annual Action Plan for the Community Development Block Grant (CDBG) Program.

Neighborhood Services Manager Joseph Wood provided a PowerPoint presentation regarding the 2015/16 Annual Action Plan for the CDBG Program. Specific topics of discussion included annual allocation process; funding availability; program administration; public service funding; recommendations for community-based organizations (CBO), City projects and services, and special projects and activities; and CDBG process.

Mr. Wood stated that the Department of Urban Housing and Development has regulations that, if a public service is offered at a facility, it must meet Americans with Disabilities Act (ADA) requirements and be accessible, which is the reason Grace and Mercy Charitable Foundation did not receive funding for its program. The building that houses the Foundation requires physical improvements, and Mr. Wood stated there is a plan taking shape, which involves the Homeless Solutions Committee, to formulate a future funding mechanism for this effort. He stated it is likely funds could be reallocated during the mid-year process.

Mayor Johnson questioned if the Foundation's building, which was formerly a restaurant, was ADA accessible at that time, to which Mr. Wood replied in the negative.

Council Member Kuehne suggested funding, over and above what was requested for the Hutchins Street Square north entrance ADA compliance project, be split by moving the Small Business Assistance program to City projects and funding it with \$10,000 and adding Grace and Mercy to CBO public services for \$10,000. Mr. Wood responded that the Small Business Assistance program is not a public service and moving it out of the economic development category would not create additional funding. In further response, the Hutchins Street Square ADA project could not be funded in one year due the magnitude of the project; therefore, it was partially funded last year and the remaining amount this year is to complete the entire project. He stated that, once the project is designed and bid, there may be leftover funding available to apply to Grace and Mercy. Council Member Kuehne questioned if any of the categories under CBO could be moved to City projects in order to provide funding to Grace and Mercy, to which Mr. Wood stated that nothing can be moved on projects and the public service cap still applies.

In response to Council Member Mounce, Mr. Wood confirmed that, during the year-end report in September, unused public service funds can be reallocated and he hopes to use funds from that process toward the physical improvements for the Grace and Mercy building, which must be completed prior to it offering a public service program at the facility.

In response to Mayor Johnson, Deputy Public Works Director Charlie Swimley stated the Church Street resurfacing includes the area between Pine and Oak Streets and the parking lot to the south of the area between Oak and Walnut Streets. The improvements include a seal coat and updating the ADA parking stalls to be made from concrete, instead of asphalt. In response to Mayor Johnson, Mr. Swimley stated that the minimum ADA upgrades are planned for the parking

lot to provide ADA compliant surfaces and parking stalls. City Manager Schwabauer stated that ADA requirements include slope requirements for parking stalls and currently the stalls no longer qualify under those conditions.

In response to Mayor Johnson, Mr. Schwabauer stated that a new graffiti abatement van, which was previously presented to and rejected by Council, was purchased using a less expensive vehicle under the City Manager's purchasing authority level. The van fit with the existing policy, it is larger than the previous van, and it is not a diesel vehicle.

Council Member Mounce expressed her opposition to the Section 108 loan guarantee program that would take away future CDBG funding from projects and services benefitting CBOs and the City in the lowest income portion of the community. Further, she believed it was unjustified to use economic development incentives for repurposing the General Mills facility because it would provide incentives to the business owners for a facility on the west side of town with no guarantee that it would employ citizens from the poorest portion of the community. Mr. Wood stated that this proposal is to promote job creation for the low-income population, adding that all of the proposals under the Section 108 loan are general concepts that must be included in the Action Plan. Mr. Wood stated that firm proposals would come before Council for action.

Council Member Nakanishi expressed concern that, if the CDBG program ceased, the City would be liable to repay the Section 108 loan, to which Mr. Wood responded that the Habitat for Humanity program would bring funds back into the program because it would purchase the building and Farmers and Merchants Bank would provide the mortgage once the property was sold. Mr. Wood stressed the importance of crafting the program so that the City does not rely on CDBG funds to repay the loan. Mr. Schwabauer added that the money from Farmers and Merchants Bank is long-term financing toward repaying the loan, which is unlike the Grape Bowl project because there was no money coming back to the City from that project.

Mayor Johnson stated that many years ago Habitat for Humanity ceased doing projects because property prices rose dramatically, and he questioned if the organization was currently in a position to participate in the housing market.

Mayor Johnson opened the public hearing for public comment.

Cheryl Francis with Grace and Mercy Charitable Foundation stated that her organization is located at 425 and 425 1/2 North Sacramento Street, which the organization has refurbished without the use of federal, state, or city funding. She requested any assistance the City could provide to make her facility ADA compliant so that she may offer public services at her site.

Michael Huber with Habitat for Humanity expressed support for the Section 108 program, which would help the organization provide low-income housing. In response to the earlier question, Mr. Huber stated land acquisition and permitting is always a concern, but the group is committed to making the project a success. With this loan, they can begin to identify properties, rehabilitate the facility, and place a family into the home.

In response to Mayor Johnson, Mr. Huber stated the group was active with land acquisitions in another city, and in response to Council Member Kuehne, Mr. Huber stated that Habitat for Humanity has completed four homes in Lodi.

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

Council Member Kuehne stated he was hesitant about borrowing against future CDBG funds; however, he felt favorable toward the Habitat for Humanity proposal. Mr. Kuehne additionally expressed support for the neighborhood revitalization strategy area.

Council Member Mounce suggested that \$2,000 be taken from the Small Business Assistance program and given to Grace and Mercy and that, in September during the reallocation process, the remaining funds be used to backfill the Small Business Assistance program. Mr. Wood

confirmed that proposal could be accomplished with the funding applied toward the accessibility issue, not the service program.

Mayor Pro Tempore Chandler questioned if there was a project and budget developed for the Grace and Mercy ADA improvements, to which Mr. Wood responded in the negative. Mr. Chandler stated that, with nine days remaining to approve and submit the Action Plan, it may be necessary to bring this decision back to a special meeting.

Council Member Mounce stated that this would provide Grace and Mercy with seed money to get the ADA project started, which is why she is only suggesting \$2,000. This would give the organization an opportunity to return with a project and application for future CDBG funds, including the opportunity to seek funding during the reallocation process.

In response to Mayor Pro Tempore Chandler, Mr. Schwabauer stated that the issue for Grace and Mercy is that it is ineligible to receive funding for its service program because the facility is not ADA accessible and, until the capital changes to the facility are completed, Ms. Francis will not be able to qualify for operational assistance for her programs.

In response to Council Member Kuehne, Ms. Francis stated she had no firm estimate for the project cost.

Council Member Mounce made a motion, second by Mayor Pro Tempore Chandler, to adopt Resolution No. 2015-53 approving the 2015/16 Annual Action Plan for the Community Development Block Grant Program, and further reducing the allocation to the Small Business Assistance program under the Economic Development category by \$2,000 and allocating those funds to the Grace and Mercy Charitable Foundation under the community based organizations capital project category.

#### H. Communications

##### H-1 Appointment to the Lodi Senior Citizens Commission and Post for Expiring Terms on the Library Board of Trustees, Lodi Arts Commission, Planning Commission, and San Joaquin County Commission on Aging (CLK)

Council Member Mounce made a motion, second by Mayor Johnson, to make the following appointment and direct the City Clerk to post for the expiring terms set forth below.

Appointment:

##### Lodi Senior Citizens Commission

Roberta Wirth, term to expire December 31, 2018

Posting:

##### Library Board of Trustees

Two vacancies, terms to expire June 30, 2018

##### Lodi Arts Commission

Four vacancies, terms to expire July 1, 2018

##### Planning Commission

Two vacancies, terms to expire June 30, 2019

##### San Joaquin County Commission on Aging

One vacancy, term to expire June 30, 2018

##### 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

### RECESS

At 8:23 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 8:31 p.m.

#### I. Regular Calendar

##### I-1 Introduce Ordinance Amending Lodi Municipal Code Title 12 - Streets, Sidewalks and Public Places - by Repealing and Re-Enacting Chapter 12.12, "Parks," in its Entirety; and Further Repealing and Re-Enacting Chapter 12.16, "Permits for Use of City Facilities," in its Entirety (PRCS)

Parks, Recreation, and Cultural Services Director Jeff Hood provided a PowerPoint presentation regarding the Parks ordinance. Specific topics of discussion included reasons for the ordinance rewrite, the 18-month process, park ordinance update, sample ordinances from other municipalities, park permits for commercial use, park permits for large groups, smoking restrictions, and other changes.

Council Member Kuehne questioned if pickleball would be allowed on tennis courts under the new ordinance, to which Mr. Hood responded that the revised ordinance would provide flexibility to allow tennis-related activities, as well as give the Director authority to allow exceptions to permit games similar to tennis.

In response to Council Member Mounce, Mr. Hood stated that there is currently an ordinance that regulates peddlers and vendors in the public rights-of-way; however, selling merchandise in parks would not be permitted.

Council Member Mounce stated that a sign advertising the upcoming Zinfest is on the fence at Lodi Lake and she questioned what the policy was on outside groups advertising on the City's fence. Mr. Hood stated that the ordinance currently states no one can post signs of any size at any park. The ordinance will be revised to allow City staff to post signs in the course of its duties that would allow the City to promote City-sponsored events, such as Fourth of July at the Lake. Council Member Mounce stated the Zinfest sign detracts from the lake view, and Mr. Hood responded that staff would ensure the sign is removed.

Mayor Johnson questioned how the fee reduction and waiver process would work, citing the example of the Bear Creek Church Fun Run that will be required under the new ordinance to pay a fee to reserve the lake, which decreases its charitable donation. Mr. Hood stated that events in which the entire lake is rented has an impact on the park and prevents visitors from using the lake, park, and boathouse rental; therefore, those organizations will be charged a fee. He suggested those organizations that utilize the lake to raise money for charity consider charging participants a minimal fee to make up the cost of the lake rental. Mr. Hood pointed out that rentals of this nature result in lost revenue to the City from picnic shelter rentals, as well as increased maintenance costs, and makes the park unavailable for public use.

Mayor Johnson questioned how signs advertising charitable events or activities that promote the economy would be handled at Lodi Lake, to which Mr. Hood replied that the recommendation is to prohibit signage with the exception of those in which department employees are acting in the course and scope of their duties. This would provide flexibility for staff to locate suitable locations and ensure signs are posted in an appropriate manner.

Council Member Mounce stressed that signs blocking the view of the lake are not suitable locations, suggesting they instead be erected at the entrance to the lake. Mr. Hood stated he was supportive of keeping the concept of an open view to the public.

Mayor Johnson brought up the subject of visiting school districts overrunning local parks with bus loads of children without advanced notice. Mr. Hood stated families living near Emerson Park have complained that the sudden and overwhelming number of students from these unexpected stops have made their children feel uncomfortable, forcing them to leave the park.

Mr. Schwabauer shared the perspective from Sally Snyder with the World of Wonders Museum, who often directs visiting schools to Emerson Park following a museum visit, that there are potential economic benefits that could have visitors returning to Lodi. Mr. Hood suggested that an arrangement could be made with the museum to direct visiting schools to stop at a more appropriate park location, such as Salas Park.

Council Member Nakanishi expressed his belief that prohibiting smoking at parks restricts personal freedoms and would be difficult to enforce, adding that he would not support the ordinance unless it included a place for those who smoke.

Council Member Kuehne concurred, stating he supported the ordinance with the exception of the smoking ban.

In response to Mayor Pro Tempore Chandler, Mr. Hood stated that the recommendation is to set aside designated smoking areas for City events only, such as Fourth of July at the Lake and the Bluegrass Festival, because private rentals, such as Zinfest, are not monitored by the City and staff would not be on site to direct participants to smoking areas.

In response to Mayor Johnson, Mr. Hood stated that the current ordinance allows the Director to ban smoking in parks in certain areas; however, he believed that to ban smoking in all parks was a significant public policy issue that requires Council action.

Council Member Mounce stated she is an advocate for personal rights and did not wish to completely ban smoking in all parks because smoking is still a legal right.

Cindy Hill, chairperson for Relay for Life 2015, spoke in support of banning smoking in parks based on the negative health risks associated with smoking, the dangers of second-hand smoke, and litter from cigarette butts.

Joyce Smart spoke in opposition to banning smoking in parks based on the personal rights of individuals and added that she is a responsible smoker who does not litter discarded cigarettes.

Judy Yucht, member of the STOP Coalition, spoke in support of banning smoking in parks based on the negative health risks associated with smoking, public health issues, and litter from cigarette butts. She further stated she believed designated smoking areas would require signage and disposal receptacles at each event and it would send mixed messages to citizens.

Ed Miller spoke in opposition to banning smoking in parks based on legal rights of individuals, government over-reach, incompatible studies regarding second-hand smoke, and no data regarding affects of e-cigarettes.

Christina Ivazes, health educator with San Joaquin County Public Health Services, spoke in support of banning smoking in parks based on the negative health risks associated with smoking, protecting children and the vulnerable population who cannot speak up against smoking, the dangers of second-hand smoke, no definitive research on the affects of e-cigarettes, and increased waste products from e-cigarettes. She further pointed out that the ordinance does not adequately address the issue of chewing tobacco.

Tim Gibbs, government relations director for the American Cancer Society, spoke in support of banning smoking in parks based on case law proving there is no constitutional right to smoke, the dangers from second-hand smoke, smoking-related deaths, public health issue, and right to breathe clean air.

June Aaker questioned why the Police Department should spend its time patrolling parks against smoking, who enforces this rule in other cities, and if the Council received public correspondence

on this proposal. Ms. Aaker spoke in opposition of banning smoking in parks based on legal rights of individuals and banning smoking on private property versus public property.

Mayor Johnson confirmed that Council received correspondence, both in support and opposition, to this matter.

Jonathan Vickery spoke in support of banning smoking in parks based on the negative health risks associated with smoking, government regulation of smoking and drinking, and the affect second-hand smoke has on his asthma and allergies.

John Nunes spoke in support of banning smoking in parks based on the negative health risks associated with smoking, particularly for those who suffer from allergies, and the rights of non-smokers. He pointed out that the ordinance does not address cigar smoke.

In response to Ms. Aaker's earlier question, Mr. Schwabauer stated that the City employs police officers who are dedicated to patrolling parks and enforcing the park ordinance. In addition, the Lodi Municipal Code authorizes park attendants to enforce the ordinance in the absence of the parks officer.

Mr. Hood reminded Council that at its Shirtsleeve Session in January a report was provided that, among communities that banned smoking in parks, enforcement became a non-issue because it was largely self-enforced.

Mayor Johnson stated he believed enforcement will be difficult, pointing out that people still feed the geese and litter cigarette butts at Lodi Lake. He expressed support for designated smoking areas in parks.

Council Member Mounce recommended Council approve the ordinance, without the smoking ban, and return the portion of the ordinance on smoking to the Recreation Commission for discussion that would accommodate the rights of both smokers and non-smokers. Suggestions the Commission could consider are making some parks completely smoke free, while others have designated areas, or designating parking lots as smoking areas, while grassy areas are for non-smoking.

Mayor Pro Tempore Chandler, Council Member Kuehne, and Council Member Nakanishi agreed with the recommendation.

In response to Council Member Mounce, Mr. Hood stated that the recommendation regarding commercial photographers at parks is to set an annual permit fee of \$75, which is lower than the fee originally suggested.

In summary, Mr. Hood confirmed that Council's recommendation was to introduce the ordinance with the exception of Section 12.12.047 pertaining to smoking and with revisions to Section 12.12.045 to include the new definition of "Recreational Areas" and striking the revisions that pertain specifically to smoking. Council Member Mounce added that the Recreation Commission will review and make recommendations on smoke-free areas and designated smoking areas.

Mayor Johnson stated he was not in support of the recommendation to selectively choose non-smoking parks.

Council Member Mounce clarified that the Recreation Commission would recommend the best approach to address smoking in parks, which may or may not be to selectively choose non-smoking parks.

Mayor Pro Tempore Chandler stated he would like to see consistency with the recommendation, including designated smoking areas for City-sponsored events and private rentals.

Council Member Mounce made a motion, second by Mayor Pro Tempore Chandler, to introduce Ordinance No. 1902 amending Lodi Municipal Code Title 12 - Streets, Sidewalks and Public

Places - by repealing and re-enacting Chapter 12.12, "Parks," in its entirety; and further repealing and re-enacting Chapter 12.16, "Permits for Use of City Facilities," in its entirety, with the exception of Section 12.12.047 pertaining to smoking and revisions to Section 12.12.045 to include the new definition of "Recreational Areas" and striking the revisions that pertain specifically to smoking; and further to refer the matter regarding smoking in parks to the Recreation Commission for discussion and recommendation to Council.

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 Introduce Ordinance Amending Lodi Municipal Code Title 13 - Public Services - by Repealing and Re-Enacting Section 13.14, "Stormwater Management and Discharge Control Code," in its Entirety (PW)

This item was pulled from the agenda pursuant to staff's request.

*THE FOLLOWING ITEMS WERE DISCUSSED AND ACTED UPON OUT OF ORDER*

- I-4 Introduce Ordinance Amending Lodi Municipal Code Title 6 - Animals - by Repealing and Re-Enacting Chapter 6.08, "Prohibited Animals," in Regard to Chicken Hens in its Entirety (PD)

City Manager Schwabauer stated that, because there is a cross reference to chicken hens in the vicious dog ordinance (Item I-3), this item would be heard out of order so that, if Council does not pass this ordinance, the reference to chicken hens can be removed from the vicious dog ordinance.

Animal Services Officer Jennifer Bender provided a presentation regarding the ordinance relating to chicken hens. Specific topics of discussion included Planning Commission recommendation to amend the ordinance to allow chicken hens in residential zoning districts; no more than five chicken hens in one residential lot for home consumption; requirements relating to feed, enclosures, rear yard, and fenced-in area; and unlawful slaughter of hens within City limits. Ms. Bender stated that Code Enforcement can provide direction on size and structure of chicken enclosures as those would be considered a structure on a property. With regard to sanitation, Ms. Bender stated those regulations are currently addressed in Lodi Municipal Code Chapter 6.14, Sanitation of Premises.

In response to Council Member Mounce, Ms. Bender stated Code Enforcement, versus the Animal Division, would respond to calls regarding the size and placement of chicken coops and she added the information is available online. Council Member Mounce expressed concern about the affect on neighbors from noise, odor, and improperly built structures. Ms. Bender stated that, when chickens were previously allowed, the majority of calls were in response to roosters and no calls were received regarding sanitation of chicken hens. Council Member Mounce questioned if the Department will be able to handle an increased level of calls and what the recourse would be for unhappy neighbors. Ms. Bender responded that Animal Control will respond as it normally does by handling priority calls first, such as calls for vicious or injured dogs or animals wandering into traffic, followed by all other calls. The Division would control the number of chicken hens at a residence and further educate people on the care and sanitation of the animals. Council Member Mounce stressed that literature on the matter be produced in both English and Spanish.

In response to Council Member Nakanishi, Mr. Schwabauer stated that the Municipal Code relating to animals previously did not reference chickens, but it was addressed in the zoning code, making chickens legal for quite some time. After the complete revision of the building and zoning code, the section was overlooked from the code, making chickens prohibited.

Mayor Pro Tempore Chandler suggested that consideration be given to making chicken enclosures protected from predatory animals. Ms. Bender stated the Animal Division addresses complaints relating to possum and raccoons, adding that cat food left outside is a lure to nocturnal animals. Mr. Schwabauer stated the ordinance could be amended to require that the pens be secure from predatory access.

Debbie Haesche spoke in support of allowing chicken hens in Lodi based on them being a good source of eggs, positive learning experience for children, and responsible ownership and care.

Cherie Sintes-Glover stated she offers urban chicken consulting services and has a wealth of knowledge on the care of chickens. Ms. Sintes-Glover spoke in support of allowing chicken hens in Lodi based on them being a good source of eggs; chicken hens can lay eggs without a rooster; chicken consumption of bugs, rodents, and biowaste; and chicken manure benefits for lawns. She stated chickens should roam in the backyard, but they should have a protective coop for protection from predatory animals.

James Daumer spoke in support of allowing chicken hens in Lodi, stating he has owned chickens for almost 20 years and neighbors have never complained of odors, bugs, or sanitation issues.

June Aacker spoke in support of allowing chicken hens in Lodi, but stated that five chickens appeared to be an excessive number.

In response to Council Member Mounce, Mr. Schwabauer stated that the allowed number of chicken hens in the previous ordinance was three, but the Planning Commission is recommending five, as well as a few other standards. Council Member Mounce added that the ordinance should include language on cage security.

Council Member Nakanishi made a motion, second by Council Member Kuehne, to introduce Ordinance No. 1903 amending Lodi Municipal Code Title 6 - Animals - by repealing and re-enacting Chapter 6.08, "Prohibited Animals," in regard to chicken hens in its entirety, with the addition of language to ensure chicken hens are secured in a predator-proof enclosure, cage, or coop to protect from predatory animals.

VOTE:

The above motion carried by the following vote:

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

Noes: Mayor Johnson

Absent: None

I-3 Introduce Ordinance Amending Lodi Municipal Code Title 6 - Animals - by Repealing and Re-Enacting Chapter 6.15, "Vicious/Potentially Dangerous Dogs," in its Entirety (PD)

Animal Services Officer Jennifer Bender reported that the animal ordinance underwent a complete revision in August 2014; however, the section pertaining to vicious and dangerous dogs was inadvertently omitted, which allowed the first instance of a dog attacking, injuring, or killing another domesticated animal or chicken hen to be cited. In addition, staff included language revisions to separate "potentially dangerous dogs" and "vicious dogs" and to make the ordinance more enforceable.

Council Member Mounce made a motion, second by Council Member Nakanishi, to introduce Ordinance No. 1904 amending Lodi Municipal Code Title 6 - Animals - by repealing and re-enacting Chapter 6.15, "Vicious/Potentially Dangerous Dogs," in its entirety.

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 10:18 p.m., in memory of Marlene McBrayer, who passed away on May 4, and former City Manager Tom Peterson, who passed away on May 5.

ATTEST:

Jennifer M. Ferraiolo  
City Clerk