

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JUNE 2, 2010**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of June 2, 2010, was called to order by Mayor Katzakian at 6:00 p.m.

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

Absent: None

Also Present: Interim 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) Threatened Litigation: Government Code §54956.9(b); One Application; Potential Suit by Frederick Ohlhauser Against City of Lodi; WCAB Claim No. 2007058946 (DOI: 02/08/07)
- c) Review of Council Appointee - Interim City Manager to Include Employment, Appointment, and Evaluation of Performance (Government Code 54957)

C-3 Adjourn to Closed Session

At 6:00 p.m., Mayor Katzakian 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 Katzakian reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Item C-2 (a) was discussion only.

In regard to Item C-2 (b), negotiating direction was given.

Item C-2 (c) was discussion only.

A. Call to Order / Roll call

The Regular City Council meeting of June 2, 2010, was called to order by Mayor Katzakian at 7:00 p.m.

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

Absent: None

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

B. Pledge of Allegiance

C. Presentations

C-1 Presentation of Certificates of Appreciation to Retiring Members of the Greater Lodi Area Youth Commission and Certificates of Recognition to Graduates of the Teen Lead Program (COM)

Following introductory comments by Youth Commission liaison Brad VanderHamm, Mayor Katzakian presented the following Certificates of Appreciation to retiring members of the Greater Lodi Area Youth Commission: Adult Advisor - David Molvik; and Student Members - Evan Beau Benko, Shelby Gotelli, Joshua Gums, Priyank Patel, Gordon Wong, Mykenzie Mattheis, and Emily McConahey. Further, Mayor Katzakian presented the following Certificates of Recognition to Graduates of the Teen Lead Program: Connor Alexander, Alexandra Athanasiou, Janet Barrera, Tyler Bartlam, Navy Binning, Kylie Denton, Holly Fyffe, Kinsey Green, Kim Hester, Kelley McConahey, and Allison Schatz.

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

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Mounce, 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 Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

D-1 Receive Register of Claims in the Amount of \$2,224,628.51 (FIN)

Claims were approved in the amount of \$2,224,628.51.

D-2 Approve Minutes (CLK)

The minutes of May 13, 2010 (Special Joint Meeting with the Lodi Arts Commission) and May 18, 2010 (Shirtsleeve Session) were approved as written.

D-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Lockeford Street Railroad Crossing Removal Project (PW)

Approved the plans and specifications and authorized advertisement for bids for Lockeford Street Railroad Crossing Removal Project.

D-4 Approve Plans and Specifications and Authorize Advertisement for Bids for Water Well No. 27 On-Site Improvements and Adopt Resolution Authorizing the City Manager to Execute an Incidental Take Minimization Measures for the Project (PW)

Approved the plans and specifications and authorized advertisement for bids for Water Well No. 27 on-site improvements and adopted Resolution No. 2010-71 authorizing the City Manager to execute an Incidental Take Minimization Measures for the Project.

- D-5 Adopt Resolution Authorizing the City Manager to Execute Purchase Order with West Coast Arborists, Inc., for Removal and Replacement of 39 Raywood Ash Trees on Lower Sacramento Road between Elm Street and Tejon Street (\$17,275) (PW)

Council Member Johnson pulled this item for further discussion.

In response to Council Member Johnson and Council Member Mounce, Public Works Director Wally Sandelin stated the root system of the Raywood Ash trees is highly evasive, the current tree supervisor recommends removal, Tree Lodi was not consulted, and the item could be continued if the Council so chose to review alternatives for removal including root surgery.

Council Member Johnson made a motion, second by Council Member Mounce, to continue the item to a future Council meeting to allow time to review alternatives to removal.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

- D-6 Adopt Resolution Approving the Purchase of Padmount Transformers from Pacific Utilities, of Pleasant Hill (\$58,361.77) (EUD)

Robin Rushing pulled this item for further discussion and expressed his opposition to Proposition 16 and the two-thirds voter requirement.

Council Member Mounce made a motion, second by Council Member Johnson, to adopt Resolution No. 2010-82 approving the purchase of padmount transformers from Pacific Utilities of Pleasant Hill in the amount of \$58,361.77.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

- D-7 Adopt Resolution Approving the Purchase of Polemount Transformers from HEES Enterprises, Inc., of Astoria, OR (\$17,235.80) (EUD)

Adopted Resolution No. 2010-72 approving the purchase of polemount transformers from HEES Enterprises, Inc., of Astoria, OR, in the amount of \$17,235.80.

- D-8 Adopt Resolution Approving Termination of the Northern California Power Agency Natural Gas Procurement Program Third Phase Agreement and Authorizing the City Manager to Execute (EUD)

Adopted Resolution No. 2010-73 approving termination of the Northern California Power Agency Natural Gas Procurement Program Third Phase Agreement and authorizing the City Manager to execute the termination.

- D-9 Adopt Resolution Authorizing the City Manager to Execute Master Professional Services

Agreement with Nolte Associates, Inc., of Manteca; Approving Task Order No. 1 to Provide Initial Engineering/Financial Services to Update Impact Mitigation Fee Program (\$46,500); and Appropriating Funds (\$55,000) (PW)

Adopted Resolution No. 2010-74 authorizing the City Manager to execute Master Professional Services Agreement with Nolte Associates, Inc., of Manteca; approving Task Order No. 1 to provide initial engineering/financial services to update Impact Mitigation Fee Program in the amount of \$46,500; and appropriating funds in the amount of \$55,000.

D-10 Adopt the Following Resolutions Pertaining to the November 2, 2010, General Municipal Election: a) Resolution Calling and Giving Notice of the Holding of a General Municipal Election; b) Resolution Approving Entering into a Contract with the County of San Joaquin for the County Registrar of Voters to Provide Certain Services; c) Resolution Regarding Impartial Analyses, Arguments, and Rebuttal Arguments for Any Measure(s) that May Qualify to be Placed on the Ballot; and d) Resolution Adopting Regulations Pertaining to the Candidates' Statements

Adopted the following resolutions pertaining to the November 2, 2010, General Municipal Election: a) Resolution No. 2010-75 calling and giving notice of the holding of a General Municipal Election; b) Resolution No. 2010-76 approving entering into a contract with the County of San Joaquin for the County Registrar of Voters to provide certain services; c) Resolution No. 2010-77 regarding impartial analyses, arguments, and rebuttal arguments for any measure(s) that may qualify to be placed on the ballot; and d) Resolution No. 2010-78 adopting regulations pertaining to the candidates' statements.

D-11 Adopt Resolution Initiating Proceedings for the Levy and Collection of Assessments, Resolution Approving the Annual Report, and Resolution Declaring Intention to Levy and Collect Assessments for the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 for Fiscal Year 2010/11; and Set Public Hearing for July 7, 2010 (PW)

Adopted Resolution No. 2010-79 initiating proceedings for the levy and collection of assessments, Resolution No. 2010-80 approving the Annual Report, and Resolution No. 2010-81 declaring intention to levy and collect assessments for the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 for Fiscal Year 2010/11; and set public hearing for July 7, 2010.

E. 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.

None.

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

Council Member Johnson expressed his frustration with violations of political signs in the community and asked the City Attorney when he has time to look into placing fines for violations in the relevant ordinance.

Council Member Hansen reported on his attendance at the San Joaquin Council of Governments and Northern California Power Agency meetings. He also discussed the upcoming meeting of the SR 12 Advisory Committee, which will look at additional improvements for Highway 12 above those that are already scheduled. Mr. Hansen also provided an overview of the City's energy portfolio and the Lodi Energy Center groundbreaking on July 12, 2010, at 10:00 a.m.

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

None.

H. Public Hearings Res. H-1 Public Hearing to Consider the Appeal of Noe Juarez Luna Regarding the Decision of the Planning Commission to Deny a Use Permit for a Pool Hall/Nightclub at 651 North Cherokee Lane, Suite E (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 Katzakian called for the public hearing to consider the appeal of Noe Juarez Luna regarding the decision of the Planning Commission to deny a Use Permit for a pool hall/nightclub at 651 North Cherokee Lane, Suite E.

Interim City Manager Rad Bartlam provided a PowerPoint presentation regarding the appeal for the Use Permit at 651 North Cherokee Lane, Suite E. Mr. Bartlam discussed the proposed location, the appeal process, the Planning Commission decision, the relevant concerns expressed by staff and the Planning Commission, the proposed action before the City Council, site compatibility, and the surrounding residential area.

In response to Council Member Mounce, Mr. Bartlam confirmed that the street on the aerial map is Sonora Street instead of Calaveras Street.

In response to Council Member Johnson, Mr. Bartlam stated the Census tract is large, bordered by the Mokelumne River, Lodi Avenue, and Union Pacific railroad, and it takes in the bulk of Cherokee Lane.

Mayor Katzakian opened the public hearing.

Jerome Kinderman spoke in opposition to the appeal based on his concerns regarding the close proximity to residential, noise, and notification concerns.

Dean Savage spoke in opposition to the appeal based on his concerns regarding the close proximity to residential, density, and granting of liquor licenses.

Alex Aliferis spoke in support of the appeal based on possible revenue for the City and an additional entertainment venue in the City.

Fabi Zamora spoke in opposition to the appeal based on her concerns regarding the close proximity to residential.

Noe Juarez Luna, as the appellant, spoke in support of the appeal based on his business plan, previous approvals of similar facilities, and the chance to conduct business successfully in the City.

Gloria Torrez spoke in opposition to the appeal based on her concerns regarding the close proximity to residential.

Dan Yule spoke in support of the appeal based on having an additional entertainment venue in

the City and Mr. Luna's personal commitment to the business.

Mayor Katzakian closed the public hearing after receiving no further public comments.

In response to Council Member Hansen, Mr. Luna stated the building is big enough and the noise can be isolated with insulation in the building so that it does not go outside the building.

In response to Council Member Johnson, Mr. Bartlam stated Mr. Luna may be able to expand his current business with an additional use permit but would most likely have to retain the restaurant and add the nightclub element based on the history of call outs for restaurants versus nightclubs.

In response to Council Member Johnson, Interim Police Chief Gary Benincasa stated as an example the Police Department was called out to the El Rancho facility 59 times over a 12-month period. He stated the Police Department does receive a consistent amount of calls at nightclubs versus other businesses based on previous history with similar establishments in close proximity to residential.

In response to Council Member Hansen, Chief Benincasa stated staff has conducted special meetings with residents over noise, traffic, garbage, and other issues with surrounding residents at the former Barking Dog site and similar sites despite security presence.

In response to Council Member Johnson, Chief Benincasa stated the former Antonio's site was closed by the business owner after the difficulties she experienced.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated notification is provided to property owners within 300 feet. He stated residents may be notified for alcohol as a part of the ABC licensing process.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated the issue before the Council is the use permit for the sale of alcohol and the issue of the entertainment permit would need to come back to Council in the future if necessary.

Council Member Mounce made a motion, second by Mayor Pro Tempore Hitchcock, to adopt Resolution No. 2010-83 denying the appeal of Noe Juarez Luna regarding the decision of the Planning Commission to deny a Use Permit for a pool hall/nightclub at 651 North Cherokee Lane, Suite E.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

I. Communications - None

J. Regular Calendar

J-1 Receive Budget Presentation, Invite Public Comments, and Adopt Resolutions Approving the Res. City of Lodi Financial Plan and Budget for the Fiscal Year Beginning July 1, 2010 and Ending Res. June 30, 2011, Approving the Fiscal Year 2010/11 Appropriation Spending Limit, Amending the Fiscal Year 2009/10 Financial Plan and Budget, and Approving a General Fund Reserve Policy (CM)

Interim City Manager Rad Bartlam and Deputy City Manager Jordan Ayers provided a PowerPoint presentation regarding the proposed Fiscal Year 2010/11 Budget. Specific topics of discussion included all funds revenue, all funds expenditures, General Fund revenue, General Fund expenditures, and proposed budget adoption related actions.

In response to Council Member Hansen, Mr. Ayers confirmed that the approximately \$17.1 million received from property and sales tax does not cover the Police and Fire expenditures.

In response to Mayor Pro Tempore Hitchcock, Mr. Ayers stated the budget is balanced due to employee contributions, reduced liability reserve currently funded at 70% as recommended, departmental absorption of expenses, reduced conference and training budgets, overall departmental reduction of expenditures, elimination of the central store function, and transfer of some personnel to other funds.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated staff has not heard of specific local government raids by the State, although the Vehicle License Fee and Gas Tax take is still pending. Mr. Bartlam stated that, while staff is looking at options on a broader level in anticipation of what the State may do, he prefers to receive specific news first as to further takings by the State before taking action.

In response to Mayor Pro Tempore Hitchcock, Mr. Ayers stated much of the Gas Tax discussion is based on payment deferral versus an outright taking and the City may see anticipatory notes again from the State.

In response to Council Member Hansen, Mr. Ayers stated there are 455 authorized positions, of which 418 positions are funded and 37 are unfunded, and 14 of the funded positions are vacant.

In response to Council Member Mounce, Mr. Ayers stated the total amount of the employee concessions was approximately \$2.3 million.

Council Member Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2010-84 approving the City of Lodi Financial Plan and Budget for the fiscal year beginning July 1, 2010 and ending June 30, 2011 and approving the fiscal year 2010/11 Appropriation Spending Limit, to adopt Resolution No. 2010-85 amending the fiscal year 2009/10 Financial Plan and Budget, and to adopt Resolution No. 2010-86 approving a General Fund Reserve Policy.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

J-2 Authorize Staff to Modify Labor Unit Memorandums of Understanding According to Signed Tentative Agreements (CM)

Human Resources Manager Dean Gualco provided a brief report regarding the proposed modifications to the various Memorandums of Understanding pursuant to the signed tentative agreements. Mr. Gualco reviewed the terms as set forth in the staff report.

Council Member Johnson made a motion, second by Council Member Mounce, to authorize staff to modify labor unit Memorandums of Understanding according to signed tentative agreements.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

J-3 Adopt Resolution Approving Side Letter Amending the 2008-2013 Memorandum of Understanding Between the City of Lodi and the International Brotherhood of Electrical Workers, Local 1245 (CM)

Human Resources Manager Dean Gualco provided a brief presentation regarding the proposed side letter agreement amending the Memorandum of Understanding with the International Brotherhood of Electrical Workers bargaining group and specifically discussed the terms for the letter.

Council Member Johnson made a motion, second by Council Member Hansen, to adopt Resolution No. 2010-87 approving Side Letter amending the 2008-2013 Memorandum of Understanding between the City of Lodi and the International Brotherhood of Electrical Workers, Local 1245.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

J-4 Introduce Ordinance Amending Lodi Municipal Code Title 15, Chapter 15.64, "Development Impact Mitigation Fees," as it Relates to the Timing of the Collection of Fees During the Period of July 1, 2010 Through June 30, 2013 (CD)

Interim City Manager Rad Bartlam provided a brief presentation regarding the proposed ordinance pertaining to development impact mitigation fees. Specific topics of discussion included the collection of fees at occupancy, the automatic sunset period for the change in the ordinance, and the time frame remaining the same for collection from outside agencies.

In response to Council Member Hansen, Mr. Bartlam stated the time period is three years, after which there will be an automatic sunset. Mr. Bartlam stated the review of the entire impact fee program will probably take about a year and there will be several changes at that time.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated the two potential downsides to collecting fees later in the process is the loss of a small amount of interest and the possible delay in occupancy if there is a furlough day or the City is closed and fees cannot be collected. He stated it will also be incumbent on the City to track vacant buildings.

Council Member Hansen made a motion, second by Council Member Johnson, to introduce Ordinance No. 1832 amending Lodi Municipal Code Title 15, Chapter 15.64, "Development Impact Mitigation Fees," as it relates to the timing of the collection of fees during the period of July 1, 2010 through June 30, 2013.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, and

Mayor Katzakian

Noes: Mayor Pro Tempore Hitchcock

Absent: None

K. Ordinances

K-1 Adopt Ordinance No. 1830 Entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Chapter 13.20, 'Electrical Service,' by Adding a New Section 13.20.320, 'Schedule NST - New Sales Tax Rate'" (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, (following reading of the title) to waive reading of the ordinance in full and adopt and order to print Ordinance No. 1830 entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Chapter 13.20, 'Electrical Service,' by Adding a New Section 13.20.320, 'Schedule NST - New Sales Tax Rate,'" which was introduced at a regular meeting of the Lodi City Council held May 19, 2010.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

L. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 9:12 p.m.

ATTEST:

Randi Johl
City Clerk