

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 17, 2016**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of August 17, 2016, was called to order by Mayor Chandler at 6:32 p.m.

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

Absent: Council Member Mounce

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

C-2 Announcement of Closed Session

- a) Conference with Legal Counsel - Anticipated Litigation - Significant Exposure to Litigation Pursuant to Government Code §§54956.9(d)(2) and 54956.9(e)(1); One Case; Shall Not Be Disclosed. Due to Facts and Circumstances Not Yet Known to Potential Plaintiffs (CA)

C-3 Adjourn to Closed Session

At 6:32 p.m., Mayor Chandler adjourned the meeting to a Closed Session to discuss the above matter. The Closed Session adjourned at 6:52 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:00 p.m., Mayor Chandler reconvened the City Council meeting, and City Attorney Magdich disclosed the following action.

Item C-2 (a) was discussion and direction given with no reportable action.

A. Call to Order / Roll Call

The Regular City Council meeting of August 17, 2016, was called to order by Mayor Chandler at 7:00 p.m.

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

Absent: Council Member Mounce

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

B. Presentations - None

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

Council Member Johnson made a motion, second by Mayor Pro Tempore Kuehne, to approve the following items hereinafter set forth, **except those otherwise noted (discussed in the order of C-9, C-5, and C-13)**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

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

Noes: None
Absent: Council Member Mounce

C-1 Receive Register of Claims in the Amount of \$5,703,965.31 (FIN)

Claims were approved in the amount of \$5,703,965.31.

C-2 Approve Minutes (CLK)

The minutes of July 26, 2016 (Shirtsleeve Session), August 2, 2016 (Shirtsleeve Session), August 3, 2016 (Regular Meeting), and August 9, 2016 (Shirtsleeve Session) were approved as written.

C-3 Accept Quarterly Report of Purchases Between \$10,000 and \$20,000 (CM)

Accepted Quarterly Report of Purchases between \$10,000 and \$20,000.

C-4 Accept Quarterly Investment Report as Required by the City of Lodi Investment Policy (CM)

Accepted Quarterly Investment Report as required by the City of Lodi Investment Policy.

C-5 Approve Plans and Specifications and Authorize Advertisement for Bids for Hutchins Street Square - North Entrance Americans with Disabilities Act Improvements (PW)

This item was removed from the Consent Calendar by Mayor Pro Tempore Kuehne for discussion purposes.

Mayor Pro Tempore Kuehne requested an explanation for the secondary ramp where the stairs are located. City Manager Schwabauer stated that the current ramp is too steep to meet the Americans with Disabilities Act (ADA) standards and the secondary ramp will be added to create a path for wheelchairs at the necessary slope. With regard to the stairs, the new ramps must transition to a flat area in front of the building entrance. The maximum slope for an ADA path is 7 percent, and the current ramps are at a 14 percent slope.

Council Member Johnson questioned the need for the staircase when an ADA ramp is being built next to the stairs and suggested signage directing the public to ADA ramps located around the facility. Public Works Director Charlie Swimley stated that ADA standards require a landing area be available at the entrance/exit of a building, which must go out a certain distance. If the current landing were reformed to meet that standard, the slope on the pathway will be even steeper than it is now. The architect created an entry feature that respected the current design and feel of the building in the most economical way. Council Member Johnson stated that the Merced County administration building has ADA ramps on one side of the building and stairs on the other instead of both features at each entrance. Mr. Schwabauer pointed out that City Hall has a similar situation with multiple entrances, some of which are ADA compliant and some that are not. With regard to Hutchins Street Square, the north-side entrance was non-compliant at the time it was built, and facilities must be brought up to standard whenever there is new construction. Council Member Johnson questioned if the retrofit of City Hall was overboard, to which Mr. Schwabauer replied in the affirmative, stating the design preference of the architect was to have ADA ramps on both sides of the front entrance for consistency and aesthetics.

Mayor Pro Tempore Kuehne made a motion, second by Mayor Chandler, to approve the plans and specifications and authorize advertisement for bids for Hutchins Street Square - North Entrance Americans with Disabilities Act Improvements.

VOTE:

The above motion carried by the following vote:

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

Noes: Council Member Johnson
Absent: Council Member Mounce

C-6 Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with Garland/DBS, Inc., of Cleveland, Ohio, for Hutchins Street Square Roof Repair Project Phase 3 (\$117,491) (PW)

Adopted Resolution No. 2016-152 authorizing the City Manager to execute a Professional Services Agreement with Garland/DBS, Inc., of Cleveland, Ohio, for Hutchins Street Square Roof Repair Project Phase 3, in the amount of \$117,491.

C-7 Adopt Resolution Authorizing City Manager to Execute Amendment No. 1 to Professional Services Agreement with T. Mitchell Engineers, Inc., of San Leandro, for Engineering Consulting Services for Compressed Natural Gas Fueling Station (\$14,500) (PW)

Adopted Resolution No. 2016-153 authorizing the City Manager to Execute Amendment No. 1 to Professional Services Agreement with T. Mitchell Engineers, Inc., of San Leandro, for engineering consulting services for Compressed Natural Gas Fueling Station, in the amount of \$14,500.

C-8 Adopt Resolution Approving Memorandum of Understanding Between City of Lodi and North San Joaquin Water Conservation District Regarding Sustainable Groundwater Management (PW)

Adopted Resolution No. 2016-154 approving the Memorandum of Understanding Between City of Lodi and North San Joaquin Water Conservation District regarding Sustainable Groundwater Management.

C-9 Authorize Parks, Recreation, and Cultural Services Director to Negotiate and Execute Market-Rate Lease for Hutchins Street Square Apartment (PRCS)

This item was removed from the Consent Calendar at the request of Council Member Johnson for discussion purposes.

Council Member Johnson expressed his concern with renting out the apartment at Hutchins Street Square, stating that it could result in disputes over the property and conflicts with tenants. He stated he would rather utilize the property in another fashion, such as short-term lodging for consultants or others connected with City projects and events.

Mayor Pro Tempore Kuehne expressed support for Council Member Johnson's suggestion to house Hutchins Street Square performers or City consultants while they perform work for the City.

Council Member Nakanishi expressed concern that this would create a liability issue and was not supportive of the City owning and renting out an apartment.

Mayor Chandler stated that he felt confident the City could adequately handle any disputes and liability issues, stating he would side with the staff recommendation.

City Manager Schwabauer suggested the option of a short-term rental similar to AirBnB lodging.

Council Member Johnson used the example of allowing a pivotal representative of Tyler Technologies to stay in the apartment during the system software implementation versus renting a hotel room. The apartment has a kitchen and is in the heart of downtown and walking distance to City Hall. He stated he believed the City should have control over who stays in the apartment.

Mayor Pro Tempore Kuehne stated the AirBnB option is a creative idea and asked why the apartment has not been utilized to date. Parks, Recreation, and Cultural Services Director Jeff Hood stated the apartment has been a part of the Square for a long time and it should be utilized one way or another. Over the years, the City has received requests from individuals to

rent the facility as a place to live, and the City Attorney drafted a rental agreement that was never used. With regard to short-term stays, he pointed out that the facility does not have maid service unless that function was contracted. Mr. Hood stated that the concept of short-term stays is definitely a possibility and that rental of the apartment would increase revenue to the department. Further, Mr. Hood stated that the facility has never been utilized. The original concept was to house a caretaker for Hutchins Street Square to answer questions and respond to alarm calls, especially at night; however, the City Attorney had concerns with the concept. City Attorney Magdich stated the concern centered over having an employee that is also a tenant, especially if employment was severed, which would result in the employee's eviction from the apartment. The draft agreement was prepared as a market rate lease, however, it did not progress. With regard to liability, Ms. Magdich stated it would be no different than any other property the City leases out with the City listed as additional insured, and she felt that issue could be easily addressed.

Mayor Pro Tempore Kuehne made a motion, second by Mayor Chandler, to authorize the Parks, Recreation, and Cultural Services Director to negotiate and execute a market-rate lease for the Hutchins Street Square apartment.

VOTE:

The above motion **failed** by the following vote:

Ayes: Mayor Pro Tempore Kuehne, and Mayor Chandler

Noes: Council Member Johnson, and Council Member Nakanishi

Absent: Council Member Mounce

Mr. Schwabauer asked if Council would be willing to consider a motion that would allow for short-term use for those doing business with the City, as suggested by Council Member Johnson.

Mayor Pro Tempore Kuehne stated the apartment is an under-utilized asset and he would support the concept of short-term use by consultants and other City partners.

Mayor Chandler made a motion, second by Council Member Johnson, to authorize staff to create a lease agreement of the Hutchins Street Square apartment for short-term stays by City contractors and vendors.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Council Member Mounce

C-10 Accept Notice of Draft Amendments to Conflict of Interest Code for the 2016 Calendar Year per Government Code Section 87306.5 (CA)

Accepted Notice of Draft Amendments to Conflict of Interest Code for the 2016 calendar year per Government Code Section 87306.5.

C-11 Receive Report Regarding Communication Pertaining to Assembly Bill 1217 (Daly) - Orange County Fire Authority (CLK)

Received report regarding communication pertaining to Assembly Bill 1217 (Daly) - Orange County Fire Authority.

C-12 Set Public Hearing for September 7, 2016, to Consider and Approve 2015/16 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report and an Amendment of 2016/17 Annual Action Plan to Accommodate the Reallocation of Unused CDBG Funds from Previous Years (CD)

Set public hearing for September 7, 2016, to consider and approve 2015/16 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report and

an amendment of 2016/17 Annual Action Plan to accommodate the reallocation of unused CDBG funds from previous years.

C-13 Set Public Hearing for September 7, 2016, to Consider Adopting Resolution Eliminating Reduced Residential Impact Fee Structure for Low- and Medium-Density Zoning Designations (PW)

This item was removed from the Consent Calendar at the request of a member of the public.

Mike Lusk presented a Blue Sheet letter (filed) asking Council to consider raising the impact mitigation fee in addition to eliminating the reduced fee structure. He stated that Lodi has the lowest fees in the area and is losing out on the developments that have pre-existing agreements under the reduced rate schedule. Mr. Lusk stated he was opposed to subsidizing developers by giving a break on the impact fees and was opposed to raising rates or taking funds from the general fund to cover costs until those fees are realized. He would like to see the rate raised to a fair market value surrounding the area.

Mayor Chandler pointed out that Council is only setting the public hearing date at this time.

Mayor Pro Tempore Kuehne made a motion, second by Council Member Johnson, to set public hearing for September 7, 2016, to consider adopting resolution eliminating reduced residential impact fee structure for low- and medium-density zoning designations.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Council Member Mounce

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.

Jane Castellano registered a complaint against the City employee who handles gang intervention, stating he is making the gang situation worse instead of reducing the problems by encouraging fights among gangs and acting inappropriately outside of school. She stated the employee likely performs well in front of the City's eyes, but that is not the case outside of the job. Ms. Castellano requested the employee be removed from his position and no longer permitted to work with kids.

Tierra Castellano stated she previously trusted this employee as a role model and guide; however, she complained his recent behavior has been questionable and has placed her in upsetting circumstances.

City Manager Schwabauer responded that the City takes these concerns seriously and that the Police Department will be in contact with them to investigate their concerns. He added that, from the City's standpoint, everything seen to date suggests the employee is doing an exemplary job and that gang activity and violence has decreased since he began working in this capacity.

E. Comments by the City Council Members on Non-Agenda Items - None

F. Comments by the City Manager on Non-Agenda Items - None

G. Public Hearings

G-1 Public Hearing to Receive Input and Consider Adopting Resolution Calling an Election to Submit to the Qualified Electors the Questions of Levying a Special Tax Within the Area Proposed to be Annexed to Community Facilities District No. 2007-1 (Public Services) (Annexation No 4); Resolution Declaring Results of the Special Election and Ordering the Annexation of Territory to Community Facilities District No. 2007-1 (Public Services) (Annexation No. 4); and Introduce an Uncodified Ordinance Levying and Apportioning the Special Tax in Territory Annexed to Community Facilities District No. 2007-1 (Public Services) (Annexation No. 4) (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 Chandler called for the public hearing to consider adopting a resolution calling an election to submit to the qualified electors the question of levying a special tax within the area proposed to be annexed to Community Facilities District (CFD) No. 2007-1 (Public Services) (Annexation No 4); a resolution declaring results of the special election and ordering the annexation of territory to CFD No. 2007-1 (Public Services) (Annexation No. 4); and introduce an uncodified ordinance levying and apportioning the special tax in territory annexed to CFD No. 2007-1 (Public Services) (Annexation No. 4).

Public Works Director Charlie Swimley provided a PowerPoint presentation regarding Annexation No. 4 to CFD No. 2007-1. Specific topics of discussion included Annexation Map No. 4 and recommended action. City Manager Schwabauer explained this action adds a new subdivision to CFD No. 2007-1.

Mayor Chandler opened the public hearing for public comment.

There being no public comments, Mayor Chandler closed the public hearing.

In response to Mayor Pro Tempore Kuehne, Mr. Swimley stated the property is currently two parcels and a later action on the agenda will be the approval of the subdivision map.

Mayor Pro Tempore Kuehne made a motion, second by Council Member Johnson, to adopt Resolution No. 2016-155 calling an election to submit to the qualified electors the question of levying a special tax within the area proposed to be annexed to Community Facilities District No. 2007-1 (Public Services) (Annexation No 4).

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Council Member Mounce

City Clerk Ferraiolo reported that she canvassed the returns of the election and declared the following: 1) the total number of qualified landowner votes eligible to be cast was 10; 2) the total number of votes cast was 10; 3) the total number of votes cast for the measure was 10 and against the measure was zero; and 4) the totals for and against the measure were full, true, and correct and the measure passed.

Mayor Pro Tempore Kuehne made a motion, second by Council Member Johnson, to adopt Resolution No. 2016-156 declaring the results of the special election and ordering the annexation of territory to Community Facilities District No. 2007-1 (Public Services) (Annexation No. 4).

VOTE:

The above motion carried by the following vote:

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

Noes: None
Absent: Council Member Mounce

Mayor Pro Tempore Kuehne made a motion, second by Council Member Johnson, to introduce uncodified Ordinance No. 1928 levying and apportioning the special tax in territory annexed to Community Facilities District No. 2007-1 (Public Services) (Annexation No. 4).

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Council Member Mounce

H. Communications

H-1 Post for Vacancy on the Greater Lodi Area Youth Commission (CLK)

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

Greater Lodi Area Youth Commission - Student Member

Karli Baumbach, term to expire May 31, 2017

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Council Member Mounce

I. Regular Calendar

I-1 Adopt Resolution Approving Final Map for The Vine at Vintner's Square, Unit No. 1, Tract No. 3865 (PW)

Public Works Director Charlie Swimley provided a PowerPoint presentation regarding the Final Map for The Vine at Vintner's Square, Unit No. 1, Tract No. 3865. Specific topics of discussion included the Final Map and recommended action.

In response to Council Member Johnson, Mr. Swimley confirmed that Unit No. 1 is a gated community, but eventually both units will be one gated community.

In response to Mayor Pro Tempore Kuehne, Mr. Swimley stated the main entrance to the subdivision will be on Taylor Road, the emergency exits will be closed to non-emergency vehicles, and the sidewalks will be at standard width.

In response to Council Member Nakanishi, Chris Conklin, Vice President of The Grupe Company, stated that the lots will range from 4,500 to 8,500 square feet depending on where they are located in the development. He further responded that development has already started, adding that Phase I should commence construction in November that will span six to eight months.

Mayor Chandler stated that, while this is not an infill project, it does not increase Lodi's footprint.

Mayor Pro Tempore Kuehne made a motion, second by Council Member Johnson, to adopt Resolution No. 2016-157 approving the Final Map for The Vine at Vintner's Square, Unit No. 1, Tract No. 3865.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Council Member Mounce

I-2 Adopt Resolution Approving the Classification and Salary Range of Library Technician, Adding One Library Technician, and Deleting One Librarian (CM)

Human Resources Manager Adele Post provided a presentation regarding the Library Technician position and associated actions. Specific topics of discussion included the proposal to add a Library Technician position and eliminate a Librarian position; Library Technician duties to fall between the Senior Library Assistant and Librarian; internal promotion opportunity; salary savings of \$20,000 a year due to the elimination of the higher-paid position; and concurrence from the AFSCME bargaining group.

In response to Council Member Johnson, Ms. Post confirmed that the Librarian position is vacant.

Council Member Johnson made a motion, second by Mayor Pro Tempore Kuehne, to adopt Resolution No. 2016-158 approving the classification and salary range of Library Technician, adding one Library Technician, and deleting one Librarian.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Council Member Mounce

J. Ordinances - None

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 7:50 p.m.

ATTEST:

Jennifer M. Ferraiolo
City Clerk