

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, SEPTEMBER 21, 2016**

- C-1 Call to Order / Roll Call - N/A
- C-2 Announcement of Closed Session - N/A
- C-3 Adjourn to Closed Session - N/A
- C-4 Return to Open Session / Disclosure of Action - N/A
- A. Call to Order / Roll Call

The Regular City Council meeting of September 21, 2016, was called to order by Mayor Pro Tempore Kuehne at 7:00 p.m.

Present: Council Member Johnson, Council Member Mounce, Council Member Nakanishi, and Mayor Pro Tempore Kuehne
Absent: Mayor Chandler
Also Present: City Manager Schwabauer, Deputy City Attorney Fukasawa, and City Clerk Ferraiolo

B. Presentations

- B-1 Presentation of Certificate of Appreciation to Family of Rowland Cheney for Art Contributions to City of Lodi and Arts Commission (PRCS)

Mayor Pro Tempore Kuehne presented a certification of appreciation to Rowland Cheney's son, Zac Cheney, and daughter, Marin Whitaker, in recognition of Mr. Cheney's art contributions to the City of Lodi and the Arts Commission.

- B-2 Fire Prevention Week Proclamation (FD)

Mayor Pro Tempore Kuehne presented a proclamation to Fire Chief Larry Rooney proclaiming October 9-15, 2016, as "Fire Prevention Week" in Lodi. Chief Rooney stated the theme of this year's Fire Prevention Week is "Don't Wait; Check the Date" on smoke detector batteries and encouraged all homeowners to practice escape plans, determine a family meeting place to ensure everyone escapes safely, and to contact the Fire Department if assistance is needed with smoke detectors.

- B-3 Firefighter Memorial Month Proclamation (FD)

Mayor Pro Tempore Kuehne presented a proclamation to Fire Chief Larry Rooney proclaiming October 2016 as "Firefighter Memorial Month" in the City of Lodi. Chief Rooney reported that the Firefighter Memorial will take place on October 15, 2016, from 11:30 a.m. to 1:00 p.m. at the State Capital and stated he is extremely proud of the men and women who serve as firefighters.

- B-4 Lodi Fire Department Pink October Breast Cancer Awareness Month Fundraiser Proclamation (FD)

Mayor Pro Tempore Kuehne presented a proclamation to Lodi Fire Engineer and 2nd Vice President of the Lodi Professional Firefighters, Roger Varwig, and Fire Chief Larry Rooney in honor of the Lodi Fire Department Pink October Breast Cancer Awareness Month fundraiser in Lodi during the month of October 2016. Fire Engineer Varwig announced this is the sixth year

that Lodi Fire Department has participated in Pink October Month and that over \$20,000 has been donated to related charities. Engineer Varwig stated that firefighters will be serving tables at Chili's on October 11 and 25, 2016, with 15 percent of the proceeds going to the Breast Cancer Research Foundation. Chief Rooney stated this disease touches everyone, including him personally, and expressed how proud he was of Lodi firefighters for standing up to help this community in such an important way.

B-5 #PinkPatchProject Proclamation (PD)

Mayor Pro Tempore Kuehne presented a proclamation to Lieutenant Sierra Brucia, Lodi Police Officers Association representative Andre Belaski, and Lodi Police Dispatchers Association representative Jennifer Root proclaiming the month of October 2016 as #PinkPatchProject. Lt. Brucia announced that proceeds from this fundraiser will go to Cancer Kids of San Joaquin County. Don Walters, founder of Cancer Kids, stated the organization started in Lodi 17 years ago to benefit a girl receiving treatment who is now cancer-free and from there it continued with fundraisers and benefits to assist more local families. The group ultimately expanded its geographical location to include all of San Joaquin County and changed its name from Lodi Cancer Kids to Cancer Kids of San Joaquin County. Mr. Walters explained that the organization provides financial assistance to families for travel costs, grocery money, co-payments, and other items not otherwise covered by insurance. Cancer Kids assists 50 to 60 families every year, has a local board of directors, and runs solely on volunteer service. The money raised through #PinkPatchProject will go straight to the families in the program.

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

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

Noes: None

Absent: Mayor Chandler

C-1 Receive Register of Claims in the Amount of \$4,474,640.41 (FIN)

Claims were approved in the amount of \$4,474,640.41.

C-2 Approve Minutes (CLK)

The minutes of August 30, 2016 (Shirtsleeve Session), September 6, 2016 (Shirtsleeve Session), and September 7, 2016 (Regular Meeting) were approved as written.

C-3 Adopt Resolution Accepting Improvements Under Contract for Lodi Lake Park - Boat Launch Facility Improvements and Appropriating Funds (\$46,000) (PW)

Adopted Resolution No. 2016-169 accepting the improvements under the contract for Lodi Lake Park - Boat Launch Facility Improvements and appropriating funds in the amount of \$46,000.

C-4 Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with DC Frost Associates, Inc., of Walnut Creek, for Purchase of Ultra Violet Disinfection Replacement Parts (\$220,000) (PW)

Adopted Resolution No. 2016-170 authorizing the City Manager to execute a Professional Services Agreement with DC Frost Associates, Inc., of Walnut Creek, for purchase of ultra violet disinfection replacement parts in the amount of \$220,000.

C-5 Adopt Resolution Authorizing City Manager to Execute TASER Body Camera Contract for Four Docking Stations and Wall Mounts (\$10,851.91) (PD)

Adopted Resolution No. 2016-171 authorizing the City Manager to execute the TASER Body Camera contract for four docking stations and wall mounts in the amount of \$10,851.91.

C-6 Adopt Resolution Authorizing City Manager to Execute Improvement Deferral Agreement for 25, 27, and 31 East Vine Street (PW)

Adopted Resolution No. 2016-172 authorizing the City Manager to execute an Improvement Deferral Agreement for 25, 27, and 31 East Vine Street.

C-7 Adopt Resolution Approving Application for Youth Soccer and Recreational Development Program Grant for Blakely Park (PRCS)

Adopted Resolution No. 2016-173 approving the application for Youth Soccer and Recreational Development Program Grant for Blakely Park.

C-8 Request San Joaquin County Board of Supervisors Adopt 5 MPH Boating Speed Limit on the Mokelumne River Adjacent to Lodi Lake Park and Nature Area Until March 1, 2022 (PRCS)

Approved request that San Joaquin County Board of Supervisors adopt 5 mph boating speed limit on the Mokelumne River adjacent to Lodi Lake Park and Nature Area until March 1, 2022.

C-9 Adopt Resolution Approving Bylaw Changes for Lodi Arts Commission (PRCS)

Adopted Resolution No. 2016-174 approving bylaw changes for the Lodi Arts Commission.

C-10 Rescind Resolution No. 2007-72 and Adopt Resolution Approving Travel Policy in Accordance with Government Code Section 53232 (CM)

Rescinded Resolution No. 2007-72 and adopted Resolution No. 2016-175 approving the Travel Policy in accordance with Government Code Section 53232.

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.

Marilyn Hughes, member of the Sheriff's boat patrol and Lodi Police Partners, kayak and paddleboat instructor, and adaptive paddling instructor for the handicapped, commented on Item C-8 regarding the 5 mile-per-hour (mph) speed limit on the Mokelumne River. The City's intention behind the 5 mph speed limit request to the San Joaquin County Board of Supervisors is to address the erosion problem at Lodi Lake; however, she added that motorized vehicles on the Lake negatively effect kayak and paddleboat users because waves swamp the boats, it creates noise pollution, and disrupts the serenity of the Nature Area. She requested Council not limit its request and, instead, ask for the entire length of the river and take over jurisdiction of the river from the Sheriff's department.

City Manager Schwabauer confirmed that the recommendation going before the County Board of Supervisors, which was approved by Council under Item C-8, is to request a 5 mph speed limit for the entire river area. He further stated that the Mokelumne River is legally in San Joaquin County's jurisdiction, Lodi's boundary ends at the south bank of the Mokelumne River, and he

was uncertain if it was possible to annex the river to Lodi.

Jay Bell also commented on Item C-8 and provided information to support the reduced speed limit, including lack of natural surface movement on the Lake to cause erosion, lack of high water level winters to cause erosion, data from several sources to support that boat wakes raise water levels and contribute to erosion, and encouragement from various agencies to reduce speed limits on boats and jet skis because of the negative effects on shore erosion, animal life, and noise pollution. He believed a strict 5 mph speed limit will lead to self enforcement and become the norm, while those exceeding the limit will be handled by law enforcement. He expressed support for the reduction of speed and thanked Council for taking this step.

In response to Council Member Nakanishi, Mr. Bell stated that the 5 mph speed limit has been suggested by many entities over the years and is likely a reasonable speed that produces the least amount of wake while still providing enough speed to traverse at a reasonable pace.

Mr. Schwabauer stated he hopes Ms. Hughes and Mr. Bell will join City staff before the San Joaquin County Board of Supervisors when this request is presented because their input will be helpful. He stated he will inform them of the date once it has been set.

Council Member Johnson recalled that he testified before the Board of Supervisors twice on this subject matter, yet the Board had no sympathy in granting Lodi an exclusive on the river because it felt the river belonged to everyone, despite Lodi's argument about safety, noise pollution, and the waterway to the west. He stated new members on the Board may be more amenable to Lodi's plight and suggested that those testifying demonstrate the proliferation of the use of kayaks, paddleboards, and canoes, which were not in existence when this issue came up previously. He believed this will be an uphill battle, but it was worthwhile to try again.

In response to Council Member Nakanishi, Mr. Schwabauer confirmed there were two deaths on the Lake at the time this issue appeared before the Board. Council Member Nakanishi stressed that the issue of safety be brought up again when presenting this request to the Board.

John Slaughterback thanked Council for addressing his concerns at the last Council meeting regarding bad debt write off, stating he was surprised to learn of the \$1 million collected in late fees for utility service. He stated he hopes Lodi is not overly penalizing residents to pay for the abusers of the utility system because the collected amount seems excessive. Mr. Slaughterback stated he expected some Council Members to express concern over his suggestion to make property owners responsible for the bad debt, which is why he suggested the City consider increasing the deposit for new accounts. He stated the City must limit its losses and continue to address the amount of bad debt write off.

Council Member Nakanishi commented on the suggestion to increase the deposit, stating the City could be criticized for holding onto large deposits. He further explained that, when this issue came before Council previously, it was discovered that many people paid their bill late because it was cheaper to pay Lodi's late fee, which is what prompted Council to shorten the timelines.

In response to Council Member Mounce, Deputy City Manager Jordan Ayers explained the deposit requirement for new accounts: those with a letter of credit or reference from a prior utility showing good payment history are not required to pay a deposit; and those without references are charged a deposit based on the nature of the residence (i.e. apartment, number of bedrooms, etc.) on a sliding scale with the lowest deposit at \$125 and the highest at \$500. Mr. Ayers explained that the deposit is held for a period of at least 12 months and is charged back to the account for those with no late payments during that timeframe.

Marilyn Hughes stated she was involved as a Police Partner in the standoff at Needham School and commended the newspaper for handling the story well and the school district and Police Department for the excellent coordination between agencies. The Lodi Unified School District has a program called Chalkboard Connection and was able to notify parents to keep their children away from the area during the incident.

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

Council Member Johnson commented on the recent Shirtsleeve Session regarding budget and fiscal policies, during which results of the employee survey were revealed, as well as employee comments regarding the City's budget. He believed many of the comments were well thought out and on target and suggested that feedback be given to employees and that staff follow up on some of the suggestions to determine their validity. Council Member Johnson further proposed the City conduct a similar exercise every couple of years to check in with those performing the job for ideas on how to do so more efficiently.

Mayor Pro Tempore Kuehne reported that he and Council Member Johnson participated in the Asset Based Community Development (ABCD) training on September 16 and 17, 2016, along with over 60 other attendees. He stated it was a productive time spent assessing the assets in the Heritage District, which include many schools, businesses, parks, and facilities, along with the Grape Festival grounds. He stated he was pleased that residents from the area, as well as stakeholders, participated in this worthwhile activity.

Council Member Mounce stated she considered participating in the ABCD workshop; however, she felt strongly that those living in the area should express their opinions rather than her doing so this early in the process. She stated that resident input should have been sought on the naming of the Heritage District because she believed a majority would have preferred another name. Council Member Mounce stated she looks forward to the outcome of this project, but added residents in the area were promised many things in the past, yet nothing came of those promises. She stressed that, if promises are made again to improve the neighborhood, the City must follow through to earn residents' trust. Council Member Mounce further reported that she spoke at the American University Women's Group where a member expressed her concern about the Animal Shelter. This member, who serves as a volunteer at the Shelter, stated there are over 66 cats confined in a small area, the cats contract kennel cough and do not get fresh air, and many of the cats are ultimately euthanized because the facility cannot handle the number of animals. She stressed there needs to be a balance between community and government by encouraging cat adoptions and improving the facility.

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

None.

G. Public Hearings - None

H. Communications

H-1 Appointments to the Greater Lodi Area Youth Commission (Student Members) and Post for Vacancy on Greater Lodi Area Youth Commission (Adult Advisor) (CLK)

Council Member Mounce made a motion, second by Council Member Nakanishi, to make the following appointments and direct the City Clerk to post for the following vacancies:

APPOINTMENTS:

Greater Lodi Area Youth Commission (Student Members)

Emma Colarossi, term to expire May 31, 2018

Jack Gobel, term to expire May 31, 2018

Harlie Litton, term to expire May 31, 2018

Evan Seibly, term to expire May 31, 2018

Tasha Shukla, term to expire May 31, 2018

John Rowlands, term to expire May 31, 2017

POSTING:

Greater Lodi Area Youth Commission (Adult Advisor)

Daniel Valdez, term to expire May 31, 2018

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Chandler

H-2 Monthly Protocol Account Report (CLK)

Council Member Johnson made a motion, second by Council Member Mounce, to approve the monthly Protocol Account Report through August 31, 2016.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Chandler

I. Regular Calendar

I-1 Introduce Ordinance Amending Lodi Municipal Code Title 17 - Development Code - by Repealing and Re-Enacting Section 17.30.070, "Water Efficient Landscape Requirements," in Its Entirety

Public Works Director Charlie Swimley provided a PowerPoint presentation regarding the Model Water Efficient Landscape Ordinance (MWELo). Specific topics of discussion included 2015 Updated MWELo, significant revisions, and MWELo implementation.

In response to Mayor Pro Tempore Kuehne, Mr. Swimley stated the City could be open to lawsuits if this ordinance is not adopted; however, the State has no enforcement plan in place.

Council Member Johnson questioned how this ordinance will apply to individual homeowners who want to replace their lawn, landscaping, or sprinklers, particularly those properties over 5,000 square feet. Mr. Swimley responded that for properties between 500 and 2,500 square feet, Public Works staff will review the plan and require the property owner to self-certify as to compliance if the building permit includes a landscaping plan. For those permits without a landscaping plan, staff would not be aware of any upgrades and would, therefore, not check for self-compliance. Mr. Swimley added that staff generally does not see landscaping plans with building permits. Council Member Johnson suggested that contract landscapers be made aware of the ordinance in order to encourage compliance among those putting in new sprinkler and landscaping systems. Mr. Swimley stated that staff will make all landscape contractors aware of the ordinance, adding that reconstruction projects under 2,500 square feet would not be required to do anything.

In response to Council Member Nakanishi, City Manager Schwabauer stated this ordinance applies to new development and existing residences; however, homeowners are not required to comply with this ordinance unless they make changes to their existing systems by constructing more than 2,500 square feet.

In response to Council Member Mounce, Mr. Swimley confirmed that staff is recommending amendment to Lodi's ordinance in order to comply and be consistent with the State's updated MWELo. In further response, Mr. Swimley stated that, at this point, staff is not recommending additional or administrative fees as a result of this ordinance because there is no way to anticipate how many permits will go through this process for residential development. He stated that, if staff feels it is necessary to capture additional costs, the matter will be brought back to

Council for action. Further, Mr. Swimley stated he would research how many properties there are in Lodi with over 2,500 square feet of yard.

In response to Council Member Nakanishi, Mr. Swimley stated that gray water includes water from washing machines and sinks. He stated there are systems that capture gray water to irrigate landscape, there are benefits to installing such a system, and homeowners are not required to install a gray water system. Mr. Swimley stated the State is encouraging homeowners through this ordinance to take advantage of rainwater by absorbing rainfall into the ground instead of allowing it to run into the gutter. Public Works plans to partner with the Parks, Recreation, and Cultural Service Department, which is an expert in irrigation systems and types of soil and plants that will work toward this endeavor. In further response, Mr. Swimley stated the City needs to comply with the State regulations; however, there will be a learning curve and potential adjustments as staff works with the ordinance.

In response to Council Member Mounce, Mr. Swimley encouraged citizens who are interested in using rainwater as a form of irrigation for their landscape to contact the Public Works Water Conservation Division regarding the rebate program.

In response to Mayor Pro Tempore Kuehne, Mr. Swimley stated that, at this time, there are no incentives in the ordinance for developers to install rainwater and gray water systems in new developments because the regulations are statewide and there are differing climates, land types, and water sources throughout the state.

Council Member Nakanishi requested that Council Members be provided information and the necessary rebate paperwork for rainwater collection so they can use the system and know how it works.

Marilyn Hughes stated she lives in a condominium with a homeowners association; however, the association voted down the use of rain barrels and water tolerant plants with the explanation that it is not yet a requirement. She requested Lodi notify homeowner associations that homeowners are free to install rainwater systems.

Council Member Mounce made a motion, second by Council Member Johnson, to introduce Ordinance No. 1929 amending Lodi Municipal Code Title 17 - Development Code - by repealing and re-enacting Section 17.30.070, "Water Efficient Landscape Requirements," in its entirety.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Chandler

I-2 Introduce Ordinance Amending Lodi Municipal Code Title 5 - Permits and Regulations - by Repealing and Re-Enacting Chapter 5.24, "Taxicab Transportation Service," and Chapter 5.25, "Pedicabs," in Their Entirety to Update, Standardize, and Clarify Appeal Procedures, Renewal Procedures and Requirements, Insurance Requirements, Health and Safety Requirements, and Definitions (CA)

Deputy City Attorney John Fukasawa provided a presentation regarding the amendment of ordinances governing taxicab transportation service and pedicabs. Specific topics of discussion included amendments to address deficiencies in the ordinances; review by the Police Department, Deputy City Manager, and City Clerk; Council's previous concern regarding regulations requiring the Police Department to inspect vehicles on an annual basis; amendment requiring taxicab owners and applicants to obtain certifications from licensed mechanics; and regulation to provide Police Department authority to inspect vehicles upon complaint of safety or condition of vehicle.

In response to Council Member Mounce, Mr. Fukasawa stated that Uber and Lyft are regulated

by the Public Utilities Commission (PUC) and are required to maintain a certain level of insurance and to have vehicles inspected to ensure they are in a proper, safe, and clean condition. The proposed amendments to the ordinances are intended to meet the same level as those of Uber and Lyft.

In response to Mayor Pro Tempore Kuehne, Mr. Fukasawa stated that the ordinance refines the definition of types of vehicles and that certain services, such as wine shuttles and medical transportation, will be exempt from the ordinance as they are regulated by the PUC.

Council Member Mounce made a motion, second by Council Member Johnson, to introduce Ordinance No. 1930 and Ordinance No. 1931 amending Lodi Municipal Code Title 5 - Permits and Regulations - by Repealing and Re-Enacting Chapter 5.24, "Taxicab Transportation Service," and Chapter 5.25, "Pedicabs," in their entirety to update, standardize, and clarify appeal procedures, renewal procedures and requirements, insurance requirements, health and safety requirements, and definitions.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Chandler

J. Ordinances - None

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 8:32 p.m.

ATTEST:

Jennifer M. Ferraiolo
City Clerk