

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 4, 2006**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of October 4, 2006, was called to order by Mayor Hitchcock at 5:07 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and Interim City Clerk Perrin

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Conference with Blair King, City Manager, and George Morrow, Electric Utility Director (Acting Negotiators), regarding offers by the city of Roseville and the Turlock Irrigation District to acquire a portion of the City's entitlement, by purchase or lease, in the CT1 Project, pursuant to Government Code section 54956.8
- b) Actual litigation: Government Code §54956.9(a); one case, City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al., San Francisco, Superior Court, Case No. CGC-05-441976
- c) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- d) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al., United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

C-3 ADJOURN TO CLOSED SESSION

At 5:07 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:00 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:10 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Items C-2 (a), (c), and (d) were direction only; no final action.

Item C-2 (b) was discussion only.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of October 4, 2006, was called to order by Mayor Hitchcock at 7:10 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and Interim City Clerk Perrin

B. INVOCATION

The invocation was given by Father Rick Matters, St. John the Baptist Episcopal Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hitchcock presented a proclamation to Diane Amaral, Arts Coordinator, proclaiming the month of October 2006 as “National Arts & Humanities Month” in the City of Lodi. Ms. Amaral announced that the 4th annual Arts Open House will be held on October 5 at Hutchins Street Square from 6:30 to 8:30 p.m., at which visitors can meet local artists, watch live demonstrations, and enjoy special displays. Friday, October 6 is the First Friday Art Hop from 6:00 to 9:00 p.m. at various locations throughout downtown Lodi, and on October 26, the Lodi Arts Project Fund and the Knowlton Gallery will serve as hosts for the Americans for Arts Emerging Arts Leader Creative Conversations at the Knowlton Gallery.

D-2 (b) Mayor Hitchcock presented a proclamation to Joelle Gomez with the Women’s Center of San Joaquin County proclaiming the month of October 2006 as “Domestic Violence Awareness Month” in the City of Lodi.

D-3 (a) “Presentation of Certificate of Recognition to Lodi Improvement Committee member, Joseph Spinelli” was ***pulled from the agenda.***

D-3 (b) Interim City Clerk Perrin gave an update on the Centennial activities being planned for 2006. JoEllen Flemmer, representing the Lodi Rotary Club, provided information regarding the upcoming Centennial event, Oktoberfest, which will be held on October 27 at the American Legion Hall from 5:30 to 11:00 p.m. The event, sponsored by the three Rotary Clubs, will include a local accordion player and German music, traditional German food, beer, and wine, and demonstrations of traditional German dancing. Tickets are \$10 in advance and \$15 at the door and can be purchased at the Lodi Longs Drug Stores, Lakewood Drug Store, and the Bank of Agriculture and Commerce.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Hansen, Mounce second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$5,092,868.57.

E-2 The minutes of August 2, 2006 (Regular Meeting) and September 26, 2006 (Shirtsleeve Session) were approved as written.

E-3 Approved the plans and specifications and authorized advertisement for bids for the Lodi Avenue at Stockton Street and Elm Street and Ham Lane Traffic Signal and Striping Modification Project; and adopted Resolution No. 2006-178 approving installation of no-parking zones for left-turn lanes on Lodi Avenue at Stockton Street.

E-4 Adopted Resolution No. 2006-179 awarding the purchase of 27 polemount and 5 padmount transformers to ERMCO, Inc., of Dyersburg, Tennessee, the bidder whose proposal and equipment meet City of Lodi specifications and whose transformers are expected to yield the lowest overall life-cycle costs, in the amount of \$83,851.06.

E-5 Accepted improvements under “White Slough Water Pollution Control Facility Year 2004 Improvements Project” contract and received notification of Contract Change Order.

E-6 Adopted Resolution No. 2006-180 authorizing the City Manager to execute Communications Equipment and Property Joint Use Agreement with San Joaquin County.

- E-7 Adopted Resolution of Intention No. 2006-181 to Vacate a 16-foot easement at 1029 South Sacramento Street (APN 045-260-06) and an 11-foot easement at 1028 South School Street (APN 045-260-07) to enable the construction of a residential 11-lot subdivision development, "Interlake Square"; referred the matter to the Planning Commission; and set public hearing for November 15, 2006.
 - E-8 Authorized the Treasurer to enter into agreement with Farmers and Merchants Bank of Central California for the issuance of a City credit card for City Clerk, Randi Johl.
 - E-9 "Receive and file recommended design guidelines for the Eastside Mobility and Access Plan" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
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ACTION ON ITEM REMOVED FROM CONSENT CALENDAR

- E-9 "Receive and file recommended design guidelines for the Eastside Mobility and Access Plan"

PUBLIC COMMENTS:

- Joe Petersen, speaking on behalf of the old Jim Minor Carpets building, stated that he supports the plan; however, he requested that it be corrected to reflect that the property located at 17 East Lodi Avenue is not an underutilized property as the maps on pages 12, 30, and 34 denote. He believed that it may once have been underutilized prior to his purchase of the property, but he pointed out that it is the only property on Lodi Avenue with trees, creative and lively signage, and landscaping. Additionally, the business is a solid revenue source for the City, and he requested that the plan be corrected. Mr. Petersen submitted photos of the property located at 17 East Lodi Avenue (filed).

City Manager King suggested that Council incorporate an addendum to note that the property located at 17 East Lodi Avenue is at this time in active use and contributing to the tax base of the City.

In response to Mayor Hitchcock, Peter Pirnejad, Planning Manager, stated that the survey was done visually in February 2006 by a walking tour of the area and information obtained from Geographical Information Systems records.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Hansen second, unanimously received and filed the recommended design guidelines for the Eastside Mobility and Access Plan, with incorporation of an addendum stating that the property located at 17 East Lodi Avenue is in active use and contributing to the tax base of the City of Lodi.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Ray Crow, representing the Lodi District Chamber of Commerce, announced that it, along with Lodi Gas Storage, F&M Bank, and Applied Office, will host the annual Mayor's State of the City Address. The event will take place on October 12 at Hutchins Street Square at 11:30 p.m. The Mayor will give a visual review of Lodi's past 100 years, a recap of how the City has celebrated its 100 year Centennial celebration, and a glimpse into the future 100 years of Lodi. Further, Mark Chandler with the Lodi-Woodbridge Winegrape Commission and Joe Harrington from Lodi Memorial Hospital will give brief presentations. Tickets are on sale at the Lodi Chamber of Commerce.
- Nancy Beckman, Director of Lodi Conference and Visitors Bureau (LCVB), announced that the LCVB will hold its 5th annual Taste of Lodi event at the Wine and Roses Hotel and Restaurant on Sunday, October 8 from 1:00 to 5:00 p.m. The wine and food tasting event will showcase 41

wineries and 18 restaurants and will include music, wine tasting seminars, and cooking demonstrations. Ms. Beckman presented each Council Member with a pair of complimentary tickets and encouraged anyone interested in attending to purchase tickets at the LCVB office or on-line at www.tasteoflodi.com. Tickets are \$40 in advance and \$50 at the door. Further, Ms. Beckman reported that she recently met with a writer from the California State Automobile Association's *Via* magazine who will be writing an article on Lodi, which will appear in the January/February 2007 issue.

- Steve Dutra announced that on Saturday, October 14 Phase 2 of a Community Development Block Grant funded project to plant trees and flowers at 12 locations on the east side of the community will be implemented. Further, Mr. Dutra introduced members in the audience from Tree Lodi and informed the public that it will hold its first annual fall 2006 tree planting program, which is a joint project between the Lodi Improvement Committee (LIC), Tree Lodi, and Solutions. The two goals of Tree Lodi for the fall tree planting program include: 1) planting 100 additional shade trees to the Lodi urban forest and 2) developing a sense of stewardship of the newly planted trees by the property owners. Tree Lodi will make applications available at the following locations: Parks and Recreation Department, Community Development Department, Finance Department, and Weigum's Nursery. The application details the responsibilities of the future tree owner, Tree Lodi, and LIC. The deadline for submitting applications is October 27, and anyone interested in the program was encouraged to contact Tree Lodi at 369-4558.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hansen reported that he attended the Northern California Power Agency (NCPA) annual conference last week and that compelling information was presented regarding global warming and greenhouse gases. He stated that Assembly Bill 32 was recently signed by Governor Schwarzenegger making the State of California the first state in the nation to enact mandatory greenhouse gas emissions regulations. NCPA has a great partnership with the California Municipal Utilities Association (CMUA) and the Northwestern Public Power Association, all of whom have been working closely together on various legislative efforts with a good degree of success. Senate Bill 107 regarding the State's renewable portfolio was signed into law, and because of their effort, the bill's sponsor worked to ensure local control. Additionally, the Federal Energy Regulatory Commission (FERC) issued an order approving the California Independent System Operator's (CAISO) market design technology update. Because of this group's effort in encouraging 14 U.S. senators to express their concerns about the regional impact of the proposal, FERC is requiring the CAISO to provide long-term transmission rights and fully test those prior to implementation. These are two huge victories for local energy providers, which prove the value of lobbying both in Washington D.C. and California. Further, NCPA's Law and Regulatory Committee will be meeting in November to develop a strategic plan, which will be presented to NCPA in establishing the goals for 2007.
- Mayor Pro Tempore Johnson commented on a quote in the newspaper from Mayor Hitchcock regarding zero-based budgeting and suggested that the City schedule a meeting to discuss this issue. Zero-based budgeting begins the year at zero, and each item in the budget must be justified. He stated that he was not advocating this method for every year because it is time and labor intensive; rather, he suggested the City consider a zero-based budget next year and then continue on a four- or five-year cycle.

Both Mayor Hitchcock and Council Member Mounce expressed an interest in pursuing this suggestion.

- Council Member Mounce reported that Senate Bill 1210, which limits the power of eminent domain in California, was recently signed by Governor Schwarzenegger. The law implements procedural changes designed to give additional power to property owners, as well as provides changes to redevelopment law that could reduce the prospect of conflicts of interest or the use of eminent domain to take property in a redevelopment project area after blight in the project area has been remediated.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King acknowledged Deputy City Clerk Perrin for the great job she has done in serving as the Interim City Clerk. He further announced that Ms. Perrin was selected as Employee of the Quarter in recognition of the significant amount of time and effort she has devoted to the City.

I. PUBLIC HEARINGS

None.

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Mounce, Hitchcock second, unanimously directed the City Clerk to post for the following vacancy:

Animal Shelter Task Force

Elaine Dornton Unspecified term limit

J-3 Miscellaneous – None

K. REGULAR CALENDAR

K-1 “Acceptance of donations from citizens, businesses, and service clubs to be used for various park amenities and improvements to Lodi Lake Park and other locations in honor of Lodi’s Centennial celebration”

Tony Goehring, Parks and Recreation Director, reported that Carol Meehleis has been actively seeking a variety of donations, goods, and services to be used for enhancement of local parks as part of the City’s Centennial celebration.

Carol Meehleis summarized the following donations she has received to date:

- Plaque to rededicate the Gilbeau petrified wood pieces at Lodi Lake Park, which were first brought to the lake in 1939 by the Gilbeau family.
- Improvements to the Japanese garden area at Lodi Lake by the youth group of the Buddhist Church of Lodi.
- Repair of the Rotary arbor and a new door for the Discovery Center at Lodi Lake.
- 20 new park benches set in concrete with a Centennial logo for a total of \$20,000. Mayor Hitchcock listed the contributors: Mike and Theresa Locke; Jim and Annette Murdaca; Tokay Development Inc.; the Bennett Family Foundation; the Mike Sinclair Family; the Meehleis Family; Larry and Georgianne Anderson; Lyons of Lodi; Theresa Williams; Millers Hot Dogs; Daryl and Opal Geweke; and the Kiwanis Club of Greater Lodi Morning Club.
- New boat house at Lodi Lake. With financial and in-kind services, these donators have volunteers to assist: Meehleis Modular Building, F&H Construction, Diede Construction, Vic Meyers, Don Garibaldi, The Kellogg Foundation, Vino Farms, Sheila Wishek, Mike Crete, Don Walters, and F&M Bank. The new boat house will be able to house the General Mills boat.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Hansen second, unanimously accepted donations from citizens, businesses, and service clubs to be used for various park amenities and improvements to Lodi Lake Park and other locations in honor of Lodi’s Centennial celebration.

K-2 "Presentation by Northern California Power Agency titled 'The Strength of Joint Action: Charting a Course for a Reliable and Clean Energy Future'"

With the aid of a PowerPoint presentation (filed), the following representatives from the Northern California Power Agency (NCPA) gave a report regarding its organization:

- Jim Pope, General Manager, reported on the following topics: membership; history and formation of NCPA; structure and role; value of NCPA's functions; and the importance of joint action.
- Jane Cirrincione, Assistant General Manager, Legislative and Regulatory Affairs, provided information on joint action and political influence; policy agenda; and grassroots advocacy and results.
- Bryan Bertacchi, Assistant General Manager, Generation Services, reported that he manages the power plants for the members of NCPA and reported on the resource mix; various projects including geothermal, combustion turbine, and hydroelectric; and development of new low-cost projects for members.
- Donna Stevener, Assistant General Manager, Finance and Administrative Services, provided information regarding the NCPA budget.

Mr. Pope reported that NCPA is preparing a report on all of the public benefits programs being offered in the various cities, which will be provided to the energy commission at the end of the year, and stated that three of Lodi's programs would be included: the Lodi Solar Schoolhouse Program; Lodi LivingWise Program; and the Heating, Ventilation, and Air Conditioning System Performance Test, which is the first program of this kind in California. He further stated that NCPA's success depends on the members and he encouraged Council Members to attend its upcoming meetings and events.

In response to Mayor Hitchcock, Mr. Pope stated that the citizens of Lodi have a huge resource and long-term investment in its Electric Utility Department, as it provides reliable service and reasonable rates.

Council Member Hansen stated that municipal utilities have a battle on its hands with investor-owned utilities who are attempting to get more of the share of the market and he was encouraged with the progress NCPA and member cities have made over the last year. Mr. Hansen requested an update on the proposed Lodi project, to which Mr. Pope reported that the 250 megawatt (MW) power plant would be located near the White Slough treatment plant. There is currently 150 MW signed up by the members, and staff is working to obtain the remaining 100 MW share of the facility in order to proceed with the licensing process. Mr. Bertacchi added that the plant would utilize some of the existing water supply from the City's nearby treatment plant and the infrastructure is already in place, both of which aid in reducing the costs for this project. The City would receive additional benefits from revenues above and beyond being a participating member in the project. Mr. Pope stated that an added benefit is its location 12 miles outside of Lodi, which may enable the City to interconnect its system into this project.

Mayor Pro Tempore Johnson suggested that new Council Members be given this presentation as a means to better understand NCPA and its role and functions.

MOTION / VOTE:

There was no Council action taken on this matter.

RECESS

At 8:51 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 9:04 p.m.

K. REGULAR CALENDAR (Continued)

- K-3 "Consider Jean Pagola's appeal of staff's decision to not remove two City trees behind 1823 Blackbird Court at City expense"

Public Works Director Prima reported that the City has a long-standing policy regarding City trees, which provides circumstances for removal. Requests are typically handled at the staff level and amount to 10 to 20 requests a year. The property owner, Jean Pagola, has requested two City trees located on Stockton Street, south of Kettleman Lane, be removed at the City's expense; however, the trees are healthy, which is contrary to City policy. The trees back up Mr. Pagola's home on Blackbird Court, and he believes the roots from the trees are negatively affecting his landscaping and rose bushes. Should the trees be removed, staff is recommending they be replaced at a cost of \$800. Staff is not in the position of approving this request given the healthy condition of the trees.

In response to Council Member Mounce, Mr. Prima stated that the trees being removed are Raywood Ash trees, and staff is recommending replacing them with Ginkos, which are slow growing trees with less of a root problem.

In response to Mayor Pro Tempore Johnson, Mr. Prima stated that no other area neighbors have complained of root problems. Discussion ensued regarding the tree policy and responsibility for payment.

In response to Council Member Hansen, George Bradley, Street Superintendent, stated that he and Arborist, Ray Fye, inspected the yard on a number of occasions and discovered small, insignificant roots, none of which would present a liability issue for injury or property damage. In addition, there was no damage to the walls or concrete; however, Mr. Pagola complained of a crack in his mow strip, which he did not witness as the strip was removed by the property owner prior to his inspection of the property. When a City tree causes damage, the City will reimburse the property owner for associated expenses.

In response to Mayor Hitchcock, Mr. Bradley agreed that extra watering for the roses may be attracting the surface roots from the trees. Mr. Bradley added that the trees provide shade, shield the fence, reduce graffiti, and serve as a sound barrier for traffic on that street.

PUBLIC COMMENTS:

- Jean Pagola explained the nuisances caused by the tree roots from the two trees behind his property. He expressed concern about replacing the trees and whether or not problems would arise from the root system of the new trees.

Council Member Beckman believed that, if the property owner wanted to remove the trees that are causing the nuisance, the request should be approved, with the cost being paid by the property owner.

MOTION #1:

Council Member Beckman made a motion, Hitchcock second, to allow the two trees behind the property at 1823 Blackbird Court to be removed and replaced at the property owner's expense.

DISCUSSION:

Mayor Hitchcock stated that she did not want to set a precedent by having the City pay to remove healthy trees.

Council Member Hansen stated he would not support the motion, as this comes down to a degree of opinion as to how much of a nuisance this is, and he would instead support a compromise of sharing the cost.

Council Member Mounce believed the City should remove and replace the trees with the costs shared between the property owner and the City.

VOTE:

The motion failed by the following vote:

Ayes: Council Members – Beckman and Mayor Hitchcock

Noes: Council Members – Hansen, Johnson, and Mounce

Absent: Council Members – None

MOTION #2 / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, authorized the removal and replacement of the two trees behind the property at 1823 Blackbird Court with a compromise of sharing the cost equally. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, and Mounce

Noes: Council Members – Beckman and Mayor Hitchcock

Absent: Council Members – None

- K-4 “Approve Downtown Lodi Business Partnership 2006-07 Annual Report, adopt Resolution of Intention to levy annual assessment, and set public hearing for October 18, 2006”

City Manager King explained the make up and purpose of the Downtown Lodi Business Partnership (DLBP) Business Improvement District (BID) and stated that the City collects the assessment; however, it is turned over to the DLBP. The public hearing to be set for October 18 would provide an opportunity for those assessed to protest the assessment.

Chuck Easterling, President of the Downtown Lodi Business Partnership (DLBP) Board of Directors, provided a report on the value and commitment of the DLBP, as well as an update on its events and activities. He stated that the DLBP has addressed and solved inequities within its benefit fee structure and is recommending the implementation of a 20% increase.

Jaime Watts, Executive Director of the DLBP, highlighted the following events, activities, and promotions of the DLBP:

- Served on many committees including Centennial Task Force, Destination Lodi, Media Day, and Shop Lodi Campaign, along with the Lodi District Chamber of Commerce.
- Attended ribbon cuttings, social events, and activities that have made the organization more visible.
- Revamped the Web site, including the addition of logos and links to other entities.
- Advertised on K-JOY, provided a program for merchants to participate in group rate advertisements, and built relationships in television, radio, and newspaper.
- Implemented the Centennial banner program and will kick off a new banner in January 2007.
- Instrumental in the Shop Lodi Campaign and developed the Friends of Downtown program, which allows people to become a member of the DLBP at a minimum cost of \$250 per year. These volunteers can bring their ideas to the table, serve on committees, list their business on the Web site, and have equal opportunities as regular members in promotional programs.
- Will refurbish the kiosks and are planning the Centennial parade of lights, Safe Halloween, and adding more retail promotions in an effort to increase business for our merchants.

Council Member Mounce stated that, at the presentation last year, she had recommended an outside auditor or licensed Certified Public Accountant (CPA) review of the financial statements; however, that has yet to be done. Additionally, this year’s budget included errors in the financials and was out of balance. She further questioned why the income for the beer and wine garden for the farmers market is half the amount of the expenses.

Mr. Easterling explained that the deficit in that cost structure would be picked up by the sponsorship, which was \$5,000. He further stated that the DLBP utilizes good accounting practices and he expressed concern that it would be a cost factor for the organization to pay for an audit. The DLBP operates on a calendar year; whereas, the City operates on a fiscal year, which has presented difficulties in preparing the financials. He suggested either DLBP change to a fiscal year or the City amend the ordinance to adjust the reporting date to January, rather than mid year. Further discussion ensued between Mr. Easterling and Council Member Mounce regarding the errors in the financials.

Council Member Hansen shared that Council received an e-mail from a business owner who complained that the business owners first received notification of the 20% increase late last week without prior communication or an explanation of the need for the fee hike. He asked Mr. Easterling if he believed the increase was sufficiently explained to the business owners, to which Mr. Easterling responded in the affirmative. He added that to date the DLBP has not received any inquiries regarding the increase and that this would be the first increase in eight years. Mr. Easterling provided information on the current and proposed fees.

In response to Council Member Hansen, Mr. King stated that the development agreement for Reynolds Ranch includes language that requires a fee for a downtown component to be paid based upon the type of business: \$450 for big box retail and 60 cents a square foot for all others. Where those funds go is a decision for the City Council; however, he recommended they be spent on physical improvements in the downtown in the form of loans for façade improvements and Americans with Disabilities Act programs.

Linda Martin, Secretary of the DLBP Board of Directors, explained that the errors in the profit and loss statements were due to a printing error and assured that the statement was balanced. Last year, the Treasurer looked into securing the services of a CPA; however, only three companies returned her call indicating that they could not perform the service and the matter was not pursued further.

Mayor Hitchcock stated that Council received an e-mail message regarding the inequities in Zones A and B and further she was aware that some businesses were assessed the wrong amount.

Mary Wallace, Vice President/Past President of the DLBP Board of Directors, stated that the DLBP found some inequities, in which some businesses were overpaying, while others were underpaying. Some effort was made to review the zones; however, the consensus was that any change would require an amendment to the City's ordinance and the DLBP did not have the authority to make that change.

Mayor Hitchcock stated that amendments to the boundaries would have to be approved by the Council; however, the request would need to come from the DLBP. Mr. King added that the change would go through the protest hearing process.

Further discussion ensued regarding the map, boundaries, and zones and how amendments could be brought forward.

Council Member Mounce recommended the DLBP utilize the services of a local CPA, which would be less expensive than a full audit, to perform a review or compilation to confirm the financials are in order. She further recommended that the DLBP continue to report to Council on a calendar year.

Council Member Hansen suggested the organization reassess its present format and research a better way in which to structure itself in order to create a funding stream to continue its momentum.

Mayor Hitchcock expressed concern that this would result in reduced funding if the program went to a voluntary-type approach, and Mr. Easterling stated that the organization would die and the functions would fall onto the City.

Deputy City Manager Krueger stated that previously the amounts for the assessments were tied to the business license billing, which did not lend transparency to the process, and he reported that the billing has since been separated to be more apparent.

In response to Mayor Hitchcock, City Attorney Schwabauer reported that an amendment to the boundary could be done as part of the annual process; however, it would require an ordinance change as it sets forth the boundaries. If the boundaries are increased, a broader process would be required. Both scenarios would be subject to a 50% of the assessed value protest.

Mr. Easterling believed it would not be equitable to change the inner boundaries and he felt the zones were exactly as they should be. Further discussion ensued whether the boundaries should be changed due to recent changes in the downtown.

Council Member Beckman stated that he would like to see the amount that the City collects for the administrative fee not be a percentage; rather, it should be a flat dollar amount that reflects what it costs the City to perform this service. He requested this component be included in the ordinance when it comes back to Council. Mr. King responded that he was unsure whether or not an administrative fee was charged for this, to which Mr. Beckman stated that a fee should be charged to the DLBP to cover what it costs the City to process this assessment.

MOTION:

Council Member Beckman made a motion, Mounce second, to approve the Downtown Lodi Business Partnership 2006-07 Annual Report, as submitted, adopted Resolution of Intention No. 2006-182 to levy annual assessment, and set public hearing for October 18, 2006.

PUBLIC COMMENTS:

- Ramona Henninger, downtown Lodi merchant, stated that her business has been located in downtown Lodi for 20 years and the DLBP has done great things for the area; however, she believed the zoning and assessment were unfair. She felt she was in the wrong zone and was classified incorrectly in the "service" category, rather than in "professionals." Ms. Henninger believed the assessment should be based on gross annual income. She attempted to register her protest today with the DLBP; however, no one returned her phone call. In regard to the letter from the DLBP, she commented that it did not state a reason for the increase and she believed the communication between the DLBP and businesses was lacking.

City Attorney Schwabauer suggested that Ms. Henninger contact the City Clerk's Office for information on how to register her protest at or before the public hearing on October 18.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – Hansen

Absent: Council Members – None

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Hitchcock, Beckman second, voted to continue with the remainder of the meeting following the 11:00 p.m. hour by the vote shown below:

Ayes: Council Members – Beckman, Hansen, Mounce, and Mayor Hitchcock
 Noes: Council Members – Johnson
 Absent: Council Members – None

K. REGULAR CALENDAR (Continued)

K-5 “Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation (\$228,552.62)”

City Attorney Schwabauer reviewed expenses as were outlined in the staff report (filed).

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Mounce second, unanimously approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$228,552.62, as detailed below:

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Water Acct. Total Amount
8002	97311	8/31/2006	People v. M&P Investments	\$ 54,383.52 (\$975.00)
8003	97307	8/31/2006	Hartford Insurance Coverage Litigation	\$128,329.65 (\$6,337.00)
8008	97312	8/31/2006	City of Lodi v. Envision Law Group	\$ 50,101.77 (\$560.00)
	13714	Jul-Sep 06	Keith O'Brien/PES Environmental, Inc.	\$ 441.68
	6287	7/1/2006	Peter Krasnoff, West Environ. Service	<u>\$ 3,168.00</u>
				\$228,552.62

L. ORDINANCES

L-1 Following reading of the title of Ordinance No. 1786 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 13, Chapter 13.20, 'Electrical Service,' by Repealing and Reenacting Section 13.20.225 Schedule NEM – Net Energy Metering Rider; and Adding Section 13.20.227 Schedule CEM – Co-Energy Metering Rider," having been introduced at a regular meeting of the Lodi City Council held September 20, 2006, the City Council, on motion of Council Member Beckman, Mounce second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – None

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:05 p.m.

ATTEST:

Jennifer M. Perrin
 Interim City Clerk