

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, NOVEMBER 18, 2015**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of November 18, 2015, was called to order by Mayor Johnson at 6:15 p.m.

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

Absent: Council Member Mounce

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

C-2 Announcement of Closed Session

a) Pending Litigation: Government Code §54956.9(a); One Case; Judy Munshower v. City of Lodi; San Joaquin County Superior Court; Case No. 39-2014-00313952-CU-PO-STK (CA)

b) Conference with Adele Post, Human Resources Manager, and Jordan Ayers, Deputy City Manager (Labor Negotiators), Regarding Lodi City Mid-Management Association, AFSCME General Services and Maintenance & Operators, International Brotherhood of Electrical Workers, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, Fire Mid-Managers, Lodi Professional Firefighters, and Unrepresented Confidential Employees; and Conference with Adele Post, Human Resources Manager, and Stephen Schwabauer, City Manager (Labor Negotiators), Regarding Unrepresented Executive Management Pursuant to Government Code §54957.6 (CM)

C-3 Adjourn to Closed Session

At 6:15 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:45 p.m.

C-4 Return to Open Session / Disclosure of Action

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

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

A. Call to Order / Roll Call

The Regular City Council meeting of November 18, 2015, was called to order by Mayor Johnson at 7:00 p.m.

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

Absent: None

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

NOTE: Council Member Mounce participated in the Council meeting via teleconference.

B. Presentations

The Mayor presented a Resolution of Appreciation to Public Works Director Wally Sandelin who was retiring after 15 years of service to the City of Lodi. Mayor Johnson and City Manager Schwabauer highlighted some of Mr. Sandelin's accomplishments during his career, including oversight of the PCE/TCE groundwater contamination management program, the surface water treatment plant, the State-mandated water meter program, and the Harney Lane Grade Separation Project.

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

Council Member Kuehne made a motion, second by Mayor Johnson, to approve the following items hereinafter set forth, with the exception of items C-14 (for discussion purposes) and C-20 (pulled at request of staff), in accordance with the report and recommendation of the City Manager. The motion was ultimately **not voted upon**.

Mayor Johnson made a motion, second by Mayor Pro Tempore Chandler, to approve the following items hereinafter set forth, with the exception of C-20 (pulled at request of staff), including C-14 as recommended with the exception of the proposed \$200 special event fee (see C-14 for further discussion on this item). This motion was made during discussion of C-14, prior to approval of the Consent Calendar, and was ultimately **withdrawn**.

Mayor Johnson made a motion, second by Mayor Pro Tempore Chandler, following separate action on C-14, to approve the following items hereinafter set forth, **with the exception of item C-20 (pulled at request of staff)**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

C-1 Receive Register of Claims in the Amount of \$6,839,940.24 (FIN)

Claims were approved in the amount of \$6,839,940.24.

C-2 Approve Minutes (CLK)

The minutes of October 27, 2015 (Shirtsleeve Session), November 3, 2015 (Shirtsleeve Session), November 4, 2015 (Regular Meeting), November 4, 2015 (Special Meeting), November 10, 2015 (Shirtsleeve Session), and November 10, 2015 (Special Meeting) were approved as written.

C-3 Report of Sale of Surplus Equipment (PW)

Received Report of Sale of Surplus Equipment.

C-4 Adopt Resolution Approving Standardization of Bus-Mounted Destination Signs and Authorizing City Manager to Execute Purchase Order for Bus Destination Signs from Luminator Technology Group, of Plano, Texas (\$37,083) (PW)

Kenneth Huntley expressed the importance of bus announcement systems, especially for those who ride buses daily, because it is often difficult to hear drivers speak over the sounds of the bus, air conditioning, and other patrons.

Adopted Resolution No. 2015-199 approving the standardization of bus-mounted destination signs and authorizing the City Manager to execute a purchase order for bus destination signs from Luminator Technology Group, of Plano, Texas, in the amount of \$37,083.

- C-5 Adopt Resolution Rejecting Non-Responsive Bid and Awarding Contract for Salas Park - Sports Lighting Improvements (Phase 1) to Modesto Executive Electric, Inc., of Modesto (\$75,502) (PW)

Adopted Resolution No. 2015-200 rejecting non-responsive bid and awarding the contract for Salas Park - Sports Lighting Improvements (Phase 1) to Modesto Executive Electric, Inc., of Modesto, in the amount of \$75,502.

- C-6 Adopt Resolution Authorizing City Manager to Execute Contract for Harney Lane Grade Separation Project with DeSilva Gates Construction, LP, of Dublin (\$14,313,075), Approving Extension of Cooperative Work Agreement, and Appropriating Funds (\$16,875,182), Subject to Caltrans Approval of Disadvantaged Business Enterprise Documentation (PW)

Adopted Resolution No. 2015-201 authorizing the City Manager to execute the contract for the Harney Lane Grade Separation Project with DeSilva Gates Construction, LP, of Dublin, in the amount of \$14,313,075; approving the extension of the Cooperative Work Agreement; and appropriating funds in the amount of \$16,875,182, subject to Caltrans approval of Disadvantaged Business Enterprise documentation.

- C-7 Accept Improvements Under Contract for Water Meter Program Non-Residential Phase (PW)

Accepted improvements under the contract for the Water Meter Program Non-Residential Phase project.

- C-8 Adopt Resolution Appropriating Funds for Landscape Maintenance Assessment District No. 2003-1 (\$25,000) (PW)

Adopted Resolution No. 2015-202 appropriating funds for Landscape Maintenance Assessment District No. 2003-1, in the amount of \$25,000.

- C-9 Adopt Resolution Accepting Rose Gate Subdivision Unit No. 1 (Tract No. 3785) and Unit No. 2 (Tract No. 3813) Public Improvements (PW)

Adopted Resolution No. 2015-203 accepting Rose Gate Subdivision Unit No. 1 (Tract No. 3785) and Unit No. 2 (Tract No. 3813) public improvements.

- C-10 Adopt Resolution Approving Collateral Assignment of Power Purchase Agreement to Permit Financing of Astoria 2 Solar Project by EFS Renewables Holdings, LLC, and Approving Related Amendments to Existing Power Purchase Agreement to Effectuate Such Financing as Contained in a Consent and Agreement; a Non-Disturbance and Attornment Agreement; and an Intercreditor and Subordination Agreement (EU)

Adopted Resolution No. 2015-204 approving the Collateral Assignment of Power Purchase Agreement to permit financing of Astoria 2 Solar Project by EFS Renewables Holdings, LLC, and approving related amendments to existing Power Purchase Agreement to effectuate such financing as contained in a Consent and Agreement; a Non-Disturbance and Attornment Agreement; and an Intercreditor and Subordination Agreement.

- C-11 Adopt Resolution Authorizing Lodi Police Department to Participate in the AVOID the 10 Grant Funded by the Office of Traffic Safety; Appropriating Funds (\$22,500); and Further Authorizing Chief of Police to Execute the Agreement (PD)

Adopted Resolution No. 2015-205 authorizing the Lodi Police Department to participate in the AVOID the 10 Grant funded by the Office of Traffic Safety; appropriating funds in the amount of \$22,500; and further authorizing the Chief of Police to execute the agreement.

C-12 Adopt Resolution Authorizing City Manager to Execute Service Maintenance Agreement with Sungard Public Sector, Inc., of Lake Mary, Florida (\$147,495.72) (PD)

Adopted Resolution No. 2015-206 authorizing the City Manager to execute the Service Maintenance Agreement with Sungard Public Sector, Inc., of Lake Mary, Florida, in the amount of \$147,495.72.

C-13 Adopt Resolution Setting Off-Season Rate for Lodi Lake Park Running Events (PRCS)

Adopted Resolution No. 2015-207 setting off-season rate for Lodi Lake Park running events.

C-14 Adopt Resolution Approving Various Public Works Policies and Various Public Works Fees, Charges, and Penalties (PW)

Council Member Kuehne requested a summary of any changes to the proposal from the Shirtsleeve Session discussion on this topic. City Manager Schwabauer stated the portion relating to multi-family policies and fees was removed from the recommendation based on the questions and comments at the Shirtsleeve Session.

Public Works Director Wally Sandelin summarized that the proposed fee for special events remains at \$200 per application versus the current fee of \$42 and the Blue Sheet item corrects information in the staff report regarding the fees for wastewater penalties. He further explained that the table includes the existing fines, proposed fines, and an alternative fine schedule with harsher penalties starting at the second offense. The Blue Sheet also includes comparative information with other agencies, and Mr. Sandelin stated the alternative penalties would place Lodi in mid-range with other agencies, while the proposed fee structure would place Lodi below the middle. With regard to the special events fee, staff recommends the proposed \$200 fee because the figure is based on the staff time necessary to process the permits.

Council Member Kuehne expressed support for the proposed fee for wastewater penalties versus the higher, alternative fees and stated he was not opposed to the \$200 special events fee.

City Manager Schwabauer explained the proposed increase to the special events fee is also in response to requests from business owners who are frustrated with the frequent street closures, which negatively affect their businesses. The belief is that a higher fee may encourage event organizers to locate events elsewhere.

In response to Council Member Kuehne, Mr. Schwabauer stated it would be difficult to craft language at the dais with regard to grandfathering in certain events and suggested that, if a majority of Council would like to explore that option, the special events fee be brought back at a later date.

Council Member Kuehne stated he would like to honor Council Member Mounce's request to further discuss the special events fee. At this time the motion was made by Mayor Johnson, second by Council Member Kuehne (as shown under the Consent Calendar), to approve the Consent Calendar, including C-14, with the exception of C-20.

Mr. Schwabauer clarified that the motion, as it related to C-14, was to approve the fees for wastewater penalties as proposed by staff and to remove the \$200 special events fee at this time. Council Member Kuehne agreed.

Mayor Pro Tempore Chandler stated he saw no reason to grandfather in certain events and that the fee was reasonable in capturing the City's costs for maintaining the streets at the conclusion of events.

The motion was ultimately **withdrawn**.

NOTE: Resolution No. 2015-198 was approved by two motions and votes (see below).

Council Member Kuehne made a motion, second by Mayor Johnson, to adopt Resolution No. 2015-198 approving various Public Works policies and various Public Works fees, charges, and penalties as proposed by staff with the exception of the \$200 special events fee.

VOTE:

The above motion carried by the following vote:

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

Noes: Council Member Mounce

Absent: None

Council Member Kuehne suggested grandfathering in the Farmers' Market event only with regard to the \$200 special events fee. Mr. Schwabauer confirmed the Lodi District Chamber of Commerce is charged the special events fee for the Farmers' Market once during the entire season; not per event.

Council Members Kuehne and Mounce stated, based on that information, they were not opposed to the \$200 special events fee.

Mayor Pro Tempore Chandler made a motion, second by Mayor Johnson, to adopt Resolution No. 2015-198 approving the Public Works fee of \$200 for special events.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

C-15 Adopt Resolution Authorizing Lodi Police Department to Waive Bicycle Licensing Fees for Lodi Adopt-A-Child for the Month of December (PD)

Adopted Resolution No. 2015-208 authorizing the Lodi Police Department to waive bicycle licensing fees for Lodi Adopt-A-Child for the month of December.

C-16 Adopt Resolution Authorizing City Manager to Donate One Retired Police Patrol Vehicle to San Joaquin Delta College Police Academy (PD)

Adopted Resolution No. 2015-209 authorizing the City Manager to donate one retired Police patrol vehicle to San Joaquin Delta College Police Academy.

C-17 Adopt Resolution Directing Staff to File 2015-2023 Draft Housing Element with the Department of Housing and Community Development for Review (CD)

Adopted Resolution No. 2015-210 directing staff to file 2015-2023 Draft Housing Element with the Department of Housing and Community Development for review.

C-18 Adopt Resolution Revising Debt Management Policy (CM)

Adopted Resolution No. 2015-211 revising the Debt Management Policy.

C-19 Approve Hutchins Street Square North Parking Lot Tree Removal (PRCS)

Approved Hutchins Street Square North Parking Lot tree removal.

C-20 Receive Annual Americans with Disabilities Act Committee Report (CD)

Pulled at the request of staff.

C-21 Receive Update on Emergency Condition at White Slough Water Pollution Control Facility Digesters No. 1 and No. 2 (PW)

Received update on the emergency condition at White Slough Water Pollution Control Facility Digesters No. 1 and No. 2.

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.

Katie Romanek introduced Suzanne Schultz with the District Attorney's office and project manager of the Family Justice Center of San Joaquin County and expressed support for the creation of this Center, which will greatly benefit the public. Ms. Schultz explained the Family Justice Center would bring together all of the partners and service agencies which victims of domestic violence, child or elder abuse, sexual assault, or human trafficking would need into a single building. Currently, individuals often travel several hours to reach the services they need, and this Center would provide a convenient and efficient location for those in trauma to receive needed assistance. There are 17 Centers in California, and the National Alliance is available to assist with the creation of such a Center in San Joaquin County. Ms. Schultz provided Council with additional information (filed).

Mayor Johnson expressed support that other agencies will join with this effort.

In response to Council Member Kuehne, Ms. Schultz stated once the new Court House in Stockton is constructed, the Center will move into the vacated building and the hope is that a number of the partners may be able to fill some of the space as well. The group is working with the San Joaquin County Board of Supervisors, and she was hopeful strategic planning sessions would begin in January.

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

Council Member Nakanishi shared a comment from a citizen who had a positive experience at the Finance Department and was impressed with the customer service. He asked Deputy City Manager Jordan Ayers to pass that along to his staff.

Council Member Kuehne reported that he attended the League of California Cities Legislative Briefing webinar, which reviewed the assembly and senate bills moving through Sacramento legislation.

Council Member Mounce reported that she was in Sacramento at the League Leaders event, which is a goal setting session for the upcoming year, and that she too will participate in a legislative update. She stressed the importance of working with legislature to protect local control and interests of the citizens. Council Member Mounce expressed appreciation for being allowed to participate in the Council meeting via teleconference.

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

None.

- G. Public Hearings - None
- H. Communications - None
- I. Regular Calendar
- I-1 Adopt Resolution Approving a Retiree Health Savings Account for Affected Members of the Lodi Police Dispatchers Association and Appropriating Funds (\$76,900) (CM)

Deputy City Manager Jordan Ayers provided a presentation regarding the Retiree Health Savings Account for affected members of the Lodi Police Dispatchers Association. Specific topics of discussion included the dispute surrounding the retiree health care provisions with the bargaining group, agreement between the group and City to create an account for the affected six individuals, and funding of initial deposit of \$75,000 split among the group based on ratio of sick leave balances and additional 1 percent of pay per year during employment with the City of Lodi. Mr. Ayers stated the account remains with the individual when they leave City employment for whatever reason and is available to them for health care. The City reviewed proposals from three deferred compensation providers; evaluated the fees, costs, and investment opportunities; and selected ICMA Retirement Corporation for this service.

Mayor Pro Tempore Chandler made a motion, second by Council Member Mounce, to adopt Resolution No. 2015-212 approving a Retiree Health Savings Account for affected members of the Lodi Police Dispatchers Association and appropriating funds in the amount of \$76,900.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

- I-2 Adopt Resolution of Change Declaring Election Results and Introduce Ordinance to Reduce Special Taxes and Annual Index for Community Facilities District No. 2007-1 (CM)

City Manager Schwabauer provided a presentation regarding the reduction of special taxes and annual index for Community Facilities District (CFD) No. 2007-1. Specific topics of discussion included establishment of CFD for new houses in 2007, original charge of \$600 per home indexed annually at the greater of 5 percent or Consumer Price Index, current charge of \$840 per single-family home, Council authorization to reduce the fee to \$500 indexed annually at a flat 2 percent, and the affected developers' agreement to give up their vested rights to develop under the discounted development impact fees. Mr. Schwabauer stated this action is to record the vote of property owners and reduce the taxes.

City Clerk Ferraiolo reported that she canvassed the returns of the election called for November 17, 2015, and reported the total number of qualified landowner votes eligible to be cast was 532; the total number of votes cast for the measure was 407; and the total number of votes cast against the measure was 0; therefore, the measure passed.

Mayor Pro Tempore Chandler made a motion, second by Council Member Nakanishi, to adopt Resolution No. 2015-213 declaring the results of the special election in Zone 1 of the Community Facilities District No. 2007-1 (Public Services).

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

Mayor Johnson made a motion, second by Mayor Pro Tempore Chandler, to introduce Ordinance No. 1918 levying and apportioning a special tax in Zone 1 of the City of Lodi Community Facilities District No. 2007-1 (Public Services) as provided in Resolution No. 2015-89.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

J. Ordinances

J-1 Ordinance No. 1917 Entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Title 13 - Public Services - by Repealing and Re-Enacting Chapter 13.04, 'Service Generally,' and Chapter 13.08, 'Water Service,' in Their Entirety" (CLK)

City Clerk Ferraiolo reported Ordinance No. 1917 was introduced at the meeting of November 4, 2015, and was before Council for second reading and adoption.

Council Member Mounce stated she believed there were too many unanswered questions from the public that needed vetting before voting and suggested this matter be postponed.

Mike Lusk requested Council postpone its vote on this matter until the issue of penalty fees and the process in which the Finance Department collects those fees for the individual utilities is resolved. He stated the fees should be returned to the individual utilities instead of being deposited into the general fund. Mr. Lusk reiterated his request, which was presented as a Blue Sheet item, that language be added to the ordinance to address these issues and prevent co-mingling of accounts.

City Manager Schwabauer addressed a comment by Mr. Lusk from a previous meeting regarding rent that the City earns at the White Slough Water Pollution Control Facility, stating the general fund paid for that land and it would be inappropriate to apply the rent payments to another utility, such as wastewater. He suggested, if Council is interested in that concept, it send the matter back to staff to research the affect the reduction in revenue would have. Mr. Schwabauer further explained the fees and fines for late charges are calculated into the cost of service and credited to the utility before it is charged.

Council Member Nakanishi believed this suggestion was too onerous and would complicate the matter, pointing out that the City gained control of the bad debt situation and that the money stays with the City regardless if it is the general fund or the utility account.

Mr. Lusk stated he understands this would cause disruptions in the budget, but the rate payers are asking for a level playing field when it comes to paying rates. He stated since 2001 rates have increased in all of the utilities because of metered rates versus flat rates, and, with pending legislation, electric rates will once again increase due to renewable energy mandates, as will water rates because of the Sustainable Groundwater Management Act. Mr. Lusk stated he believed the amount collected for late penalties versus the bad debt write off was off balance and suggested the collected fees be returned to the individual utility and the cost of Finance staff to perform associated tasks be billed to the individual utility. Further, Mr. Lusk stated he would like to see a sales tax measure put forth to support the Police and Fire Departments as a targeted special tax that is not diluted to other areas.

Mr. Schwabauer made it very clear that moneys are not siphoned off at the staff level from any of the funds and the utility accounts are credited for the \$1.2 million in late penalty charges before they are charged the cost of service.

In response to Council Member Kuehne, Mr. Schwabauer stated the discussion regarding the

billing cycle and fines, including the suggestion to accept partial payments and various payment options, is a separate matter.

Mayor Pro Tempore Chandler made a motion, second by Mayor Johnson, (following reading of the title) to waive reading of the ordinance in full and adopt and order to print Ordinance No. 1917 entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Title 13 - Public Services - by Repealing and Re-Enacting Chapter 13.04, 'Service Generally,' and Chapter 13.08, 'Water Service,' in Their Entirety," which was introduced at a regular meeting of the Lodi City Council held November 4, 2015.

VOTE:

The above motion carried by the following vote:

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

Noes: Council Member Mounce

Absent: None

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 7:57 p.m.

ATTEST:

Jennifer M. Ferraiolo  
City Clerk