

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, DECEMBER 19, 2012**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of December 19, 2012, was called to order by Mayor Nakanishi at 6:00 p.m.

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

Absent: None

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

C-2 Announcement of Closed Session

- a) Government Code Section 54956.9(a); Actual Litigation; Ross Dress for Less v. City of Lodi; Alameda Superior Court Case Number RG12629154; Regarding Alleged Utility Overcharges
- b) Prospective Sale of Agricultural Easement on Property Located at the White Slough Water Pollution Control Facility, 12751 North Thornton Road, Lodi, California (40 Acres within the Following APNs: 055-150-15; 055-130-04 and 13; 055-120-03 and 08; and 055-190-01); the Negotiating Parties are City of Lodi and Wal-Mart; Government Code §54956.8

C-3 Adjourn to Closed Session

At 6:00 p.m., Mayor Nakanishi adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:30 p.m.

C-4 Return to Open Session / Disclosure of Action

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

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

A. Call to Order / Roll Call

The Regular City Council meeting of December 19, 2012, was called to order by Mayor Nakanishi at 7:00 p.m.

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

Absent: None

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

B. Presentations

- B-1 Presentation of Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting (CM)

Following introductory comments by Deputy City Manager Jordan Ayers, Mayor Nakanishi

presented the Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting to Ruby Paiste, Financial Services Manager, and Wendy Corder-Dowhower, Supervising Accountant.

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

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

Noes: None

Absent: None

C-1 Receive Register of Claims in the Amount of \$1,363,469.87 (FIN)

Claims were approved in the amount of \$1,363,469.87.

C-2 Approve Minutes (CLK)

The minutes of December 4, 2012 (Shirtsleeve Session), December 5, 2012 (Regular Meeting), December 10, 2012 (Special Joint Meeting w/Various Boards and Commissions), and December 11, 2012 (Shirtsleeve Session) were approved as written.

C-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Mills Avenue Asphalt Concrete Overlay Project (Incline Drive to Kettleman Lane) (PW)

Approved the plans and specifications and authorized advertisement for bids for Mills Avenue Asphalt Concrete Overlay Project (Incline Drive to Kettleman Lane).

C-4 Approve Plans and Specifications and Authorize Advertisement for Bids for Municipal Service Center Transit Vehicle Maintenance Facility Security Wall and Solar Power Phase 2 and Lodi Station Lighting Improvement Projects (PW)

Approved the plans and specifications and authorized advertisement for bids for Municipal Service Center Transit Vehicle Maintenance Facility Security Wall and Solar Power Phase 2 and Lodi Station Lighting Improvement Projects.

C-5 Approve Plans and Specifications and Authorize Advertisement for Bids for City Hall Annex Phase 1 Interior Demolition and Abatement Project and Adopt Resolution Authorizing the City Manager to Execute Change Order No. 1 to the Professional Services Agreement with WMB Architects (\$34,638) (PW)

Approved the plans and specifications and authorized advertisement for bids for City Hall Annex Phase 1 Interior Demolition and Abatement Project and adopted Resolution No. 2012-195 authorizing the City Manager to execute Change Order No. 1 to the Professional Services Agreement with WMB Architects in the amount of \$34,638.

C-6 Adopt Resolution Authorizing the City Manager to Execute Contract Change Order No. 1 to the Professional Services Agreement with Itron, of Liberty Lake, WA, for Fixed Network Systems (\$53,700) and Appropriating Funds (\$85,000) (PW)

Adopted Resolution No. 2012-196 authorizing the City Manager to execute Contract Change Order No. 1 to the Professional Services Agreement with Itron, of Liberty Lake, WA, for fixed network systems in the amount of \$53,700 and appropriating funds in the amount of \$85,000.

C-7 Adopt Resolution Approving the Purchase of Solids Thickener Equipment for White Slough Water Pollution Control Facility from Tenco-Hydro, Inc., of Brookfield, Illinois (\$193,000) (PW)

Adopted Resolution No. 2012-197 approving the purchase of solids thickener equipment for White Slough Water Pollution Control Facility from Tenco-Hydro, Inc., of Brookfield, Illinois, in the amount of \$193,000.

C-8 Adopt Resolution Awarding the Purchase of a Fire Skid Pump Unit Replacement on Squad 2071 to Burton's Fire, Inc., of Modesto (\$23,772.38) (FD)

Adopted Resolution No. 2012-198 awarding the purchase of a Fire Skid Pump Unit replacement on Squad 2071 to Burton's Fire, Inc., of Modesto, in the amount of \$23,772.38.

C-9 Adopt Resolution Authorizing the City Manager to Execute Contract Change Order with C. Overaa & Company, of Richmond, for Storm and Waste Water Pump Station SCADA Integration Under the Surface Water Treatment Facility Project Contract (\$450,000) (PW)

Adopted Resolution No. 2012-199 authorizing the City Manager to execute contract change order with C. Overaa & Company, of Richmond, for storm and waste water pump station SCADA integration under the Surface Water Treatment Facility Project contract in the amount of \$450,000.

C-10 Adopt Resolution Authorizing the City Manager to Execute Professional Services Agreement with Garland/DBS, Inc., of Cleveland, Ohio, for the City Hall Carport and Jail Roof Replacement Project (\$108,707) (PW)

Adopted Resolution No. 2012-200 authorizing the City Manager to execute Professional Services Agreement with Garland/DBS, Inc., of Cleveland, Ohio, for the City Hall Carport and Jail Roof Replacement Project in the amount of \$108,707.

C-11 Adopt Resolution Authorizing the City Manager to Execute Service Maintenance Agreement with Sungard Public Sector, Inc., of Lake Mary, Florida (\$133,376.82) (PD)

Adopted Resolution No. 2012-201 authorizing the City Manager to execute service maintenance agreement with Sungard Public Sector, Inc., of Lake Mary, Florida, in the amount of \$133,376.82.

C-12 Adopt Resolution Authorizing the City Manager to Execute Agreement with Board of State and Community Corrections Accepting the California Gang Reduction, Intervention, and Prevention Program Grant (\$304,916) and Appropriating Funds (\$85,346) (PD)

Adopted Resolution No. 2012-202 authorizing the City Manager to execute agreement with Board of State and Community Corrections accepting the California Gang Reduction, Intervention, and Prevention Program grant in the amount of \$304,916 and appropriating funds in the amount of \$85,346.

C-13 Adopt Resolution Authorizing the City Manager to Execute a Purchase Agreement with GFLIP III, Limited Partnership, L.P., a California Limited Partnership, for Property Located at 16 and 40 South Cherokee Lane, Lodi, California, and Appropriating Funds (\$440,000)

(CM)

Adopted Resolution No. 2012-203 authorizing the City Manager to execute a purchase agreement with GFLIP III, Limited Partnership, L.P., a California Limited Partnership, for property located at 16 and 40 South Cherokee Lane, Lodi, California, and appropriating funds in the amount of \$440,000.

C-14 Adopt Resolution Authorizing the City Manager to Execute a Funding Agreement with the Department of Boating and Waterways (PRCS)

Adopted Resolution No. 2012-204 authorizing the City Manager to execute a funding agreement with the Department of Boating and Waterways.

C-15 Adopt Resolution Authorizing the City Manager to Extend the Term of the Contract with SAIC Energy, Environment & Infrastructure, LLC, of Hendersonville, Tennessee, for an Electric System Arc Flash Study (EUD)

Adopted Resolution No. 2012-205 authorizing the City Manager to extend the term of the contract with SAIC Energy, Environment & Infrastructure, LLC, of Hendersonville, Tennessee, for an electric system arc flash study.

C-16 Adopt Resolution Establishing the City of Lodi Renewable Energy Resources Procurement Plan (EUD)

Adopted Resolution No. 2012-206 establishing the City of Lodi Renewable Energy Resources Procurement Plan.

C-17 Adopt Resolution Setting City of Lodi Electric Utility's Energy Efficiency Program Ten-Year Target (EUD)

Adopted Resolution No. 2012-207 setting City of Lodi Electric Utility's Energy Efficiency Program ten-year target.

C-18 Adopt Resolution Authorizing the City Manager to Submit an Application to Participate in the Energy Conservation Assistance Act, a Low-Interest Loan Program Sponsored by the California Energy Commission (EUD)

Adopted Resolution No. 2012-208 authorizing the City Manager to submit an application to participate in the Energy Conservation Assistance Act, a low-interest loan program sponsored by the California Energy Commission.

C-19 Adopt Resolution Authorizing the City Manager to Allocate Additional Funds to the Lodi Energy Efficiency Financing Program (\$500,000) (EUD)

Adopted Resolution No. 2012-209 authorizing the City Manager to allocate additional funds to the Lodi Energy Efficiency Financing Program in the amount of \$500,000.

C-20 Adopt Resolution Amending the Guidelines for the Lodi Animal Advisory Commission (PD)

Adopted Resolution No. 2012-210 amending the guidelines for the Lodi Animal Advisory Commission.

C-21 Authorize Amendment to the Public Works Position Control Roster to Replace Senior Engineering Technician with Assistant Engineer Position (PW)

Authorized amendment to the Public Works position control roster to replace Senior Engineering Technician with Assistant Engineer Position.

C-22 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Support for Preserving Tax-Exempt Financing for Local Government (CLK)

Authorized the Mayor, on behalf of the City Council, to send a letter of support for preserving tax-exempt financing for local government.

C-23 Set Public Hearing for February 6, 2013, to Consider the Certification of the Final Negative Declaration and Adoption of the Lodi Land Use Development Code and Draft Zoning Map (CD)

Set public hearing for February 6, 2013, to consider the certification of the Final Negative Declaration and adoption of the Lodi Land Use Development Code and Draft Zoning Map.

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.

None.

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

Council Member Hansen reported on his attendance at the San Joaquin Council of Governments and Northern California Power Agency meetings and specifically discussed Council Member Johnson's reappointment to the Rail Commission and approving a contract for IBEW and hydro operators.

Council Member Mounce reported on her participation in the U.S. Mayors Association Conference with President Obama and his comments regarding the fiscal cliff. Council Member Mounce also responded to the recent Letter to the Editor from Mr. Sheeran by reading the post-appointment letter sent to Mr. Sheeran as an unsuccessful applicant.

Council Member Johnson suggested that the City research restroom options in the downtown area similar to Portland, Oregon.

Mayor Nakanishi spoke in regard to the planned Town Hall meeting in June 2013.

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

City Manager Bartlam wished everyone a happy holiday.

G. Public Hearings

G-1 Public Hearing to Consider Adopting Resolution Setting Pre-Approved Engineering News Record Adjustment Index for Usage-Based and Flat Water Rates (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 Nakanishi called for the public hearing to consider adopting resolution setting pre-approved Engineering News Record adjustment index for usage-based and flat water rates.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the pre-approved Engineering News Record adjustment index for water rates. Specific topics of discussion included background, flat rates, metered rates, rate comparisons, and recommendation for adoption of proposed rates.

In response to Council Member Mounce, City Manager Bartlam stated currently the treatment facility land lease funds go into the General Fund based on the construction of the lease and staff is having internal discussions with the Northern California Power Agency regarding possible amendments that may have an impact on fund distribution.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated the PCE/TCE portion of the rates was ratcheted down based on clean-up needs and the model predicts that the utility fund reserves will start to grow in 2019/20, at which time staff will come back to the City Council for direction.

Mayor Nakanishi requested comparable infrastructure data for cities in the Sacramento and San Francisco areas and urged everyone to attend the Town Hall meeting in March to receive additional information regarding utility rates.

Mayor Nakanishi opened the public hearing.

John Slaughterback spoke in regard to his concerns about utilizing comparisons from other cities to determine what is best for Lodi.

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

Council Member Hansen made a motion, second by Mayor Pro Tempore Katzakian, to adopt Resolution No. 2012-211 setting pre-approved Engineering News Record adjustment index for usage-based and flat water rates.

VOTE:

The above motion carried by the following vote:

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

Noes: Council Member Mounce

Absent: None

G-2 Public Hearing to Consider Adopting Urgency Ordinance to Extend Interim Ordinance No. 1867, Which Established a Moratorium on 1) the Outdoor Cultivation of Medical Marijuana within the City of Lodi and 2) the Indoor Cultivation of Medical Marijuana that Creates a Public Nuisance (CA)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Nakanishi called for the public hearing to consider adopting urgency ordinance to extend interim Ordinance No. 1867, which established a moratorium on 1) the outdoor cultivation of medical marijuana within the City of Lodi and 2) the indoor cultivation of medical marijuana that creates a public nuisance.

City Attorney Schwabauer provided a brief overview of the proposed urgency ordinance as set forth in the staff report.

In response to Council Member Mounce, Mr. Schwabauer stated he will research the matter of obtaining an electric utility discount for medical marijuana patients as suggested although at first blush he does have concerns about subsidizing an illegal activity from the viewpoint of the federal government.

Mayor Nakanishi opened the public hearing.

Angel Raich spoke in regard to her concern about moving the ordinance forward in a timely fashion prior to the grow season in February based on the additional information she provided including the Attorney General's opinion on the matter.

Joshua Dougherty spoke in regard to his concern about moving the ordinance forward in a timely fashion and his interaction with the Police Department as a medical marijuana patient. Mr. Schwabauer confirmed that medical marijuana can be grown in a greenhouse under the current ordinance so long as it cannot be seen or smelled from the property line.

Robin Rushing spoke in regard to his concerns about enforcement efforts based on complaints from neighbors and the overstatement of crime data related to marijuana.

John Slaughterback spoke in regard to his concerns about the needs of medical marijuana patients being impaired based on minimal complaints from the community at large.

Joe Ventura spoke in regards to the various uses of marijuana on the east side of the City by those other than medical marijuana patients.

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

In response to Council Member Mounce, Mr. Schwabauer stated any enforcement efforts would be based upon testimony from a third party such as a police or code enforcement officer and not only a neighbor.

In response to Council Member Johnson, Mr. Schwabauer confirmed that it does take a 4/5 vote to pass an urgency ordinance.

Mayor Nakanishi reiterated that he would like to see two ordinances brought back for Council consideration including one that would be a complete ban.

Council Member Johnson made a motion, second by Council Member Hansen, to adopt urgency Ordinance No. 1868 to extend interim Ordinance No. 1867, which established a moratorium on 1) the outdoor cultivation of medical marijuana within the City of Lodi and 2) the indoor cultivation of medical marijuana that creates a public nuisance.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

H. Communications - None

I. Regular Calendar

I-1 Review of City's Annual Financial Report (Fiscal Year 2011/12) by Macias, Gini & O'Connell, LLP (CM)

Deputy City Manager Jordan Ayers provided a PowerPoint presentation regarding the 2011/12 Comprehensive Annual Financial Report. Specific topics of discussion included the auditor's opinion, status of the City's financial position, highlights of the City's financial records, single audit, and management letter.

In response to Council Member Mounce, Mr. Ayers stated with respect to the benefits liability the departments are assessed the actual charged amount versus the actuarial amounts.

In response to Council Member Mounce, Mr. Ayers stated staff could consider storing back-up tapes at the White Slough facility, which would be a greater distance in the event of an emergency. Mr. Ayers stated the vendor responses to the request for information on the new financial system are due in January, the selection will be made in February, and implementation will start in March.

In response to Council Member Mounce, Scott Brunner representing Macias, Gini and O'Connell stated the debt to asset ratio listed on page 117 appears to be normal and not unusual when compared to other cities of similar size and the City appears to be in an average or better financial position than other communities.

In response to Council Member Mounce, Mr. Ayers stated he is aware of GASB 67 and GASB 68 and will keep informed of how CalPers provides its actuarial numbers in response to the same.

In response to Council Member Hansen, Mr. Brunner stated a clean audit means that there was no material inaccuracy in the numbers and the audit itself took between 1,000 and 1,200 hours to complete.

In response to Mayor Nakanishi, Mr. Ayers stated the actuarial liability can be assessed to departments instead of the hard dollar costs although there is more transparency of the amount in one line item versus 18 line items.

In response to Mayor Nakanishi, Mr. Ayers stated staff can look into transport options and storing back-up tapes at the White Slough facility for distance purposes.

In response to Mayor Nakanishi, Mr. Ayers stated the annual pension costs total liability on page 57 is 29 plus 19, the City is currently paying the actuarial calculated rate which includes some past deficit recovery, and the CalPers actuarial assumes that if everything is perfect at CalPers then the City will be fully funded at the end of the 30-year period.

In response to Joe Ventura, Mr. Bartlam stated there has not yet been a final decision to close down the court in Lodi.

Council Member Johnson made a motion, second by Mayor Pro Tempore Katzakian, to accept the City's Annual Financial Report (Fiscal Year 2011/12) by Macias, Gini & O'Connell, LLP.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

I-2 Consider Lease Agreement with Lodi Memorial Hospital for Operation of Adult Day Care Program and the Camp Hutchins Children's Day Care Program at Hutchins Street Square (PRCS)

Parks, Recreation and Cultural Services Director Jeff Hood provided a brief overview of the lease agreement with Lodi Memorial Hospital as set forth in the staff report.

In response to Council Member Mounce, Mr. Hood stated the lease covers both the Senior Center and Camp Hutchins, the current rent is \$1 per year for both and in September staff started to assess electricity and garbage charges for Camp Hutchins.

In response to Council Member Johnson, Mr. Schwabauer stated cost sharing arrangements are not controlled by the original dedication of the space.

In response to Mayor Nakanishi, Mr. Hood stated the hospital took over Camp Hutchins in 1998, there are costs for maintenance and repair that the City pays, and Camp Hutchins is now being assessed electricity and garbage charges.

In response to Council Member Mounce, Mark Sey, Chief Administrative Officer of Lodi Memorial Hospital, stated that the hospital would be amicable to covering direct costs as well as routine maintenance and repairs for the space.

In response to Council Member Hansen, Mr. Sey stated both programs are operating at a deficit although the hospital recognizes the overall value of both programs to the community.

In response to Council Members Hansen and Johnson, Jill Vanasse provided an overview of the Camp Hutchins program including the cost for attendance, participant numbers and ages, activities available at the facility, staff qualifications, staffing ratios, and staff sharing options between both programs.

In response to Council Member Mounce, Mr. Sey stated that there is no space available for the programs at the new highly-regulated hospital facility.

In response to Mayor Nakanishi, Mr. Hood stated that the space in question is approximately 2,000 square feet and if these two programs did not occupy the space it would be another rental space for revenue.

Council Member Johnson made a motion, second by Council Member Mounce, to review the options associated with amending the lease agreement with Lodi Memorial Hospital to include a mechanism for cost recovery and a monthly charge.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

J. Ordinances - None

K. Reorganization of the Following Agency Meetings: 1) Lodi Public Improvement Corporation; 2) Industrial Development Authority; 3) Lodi Financing Corporation; 4) City of

Lodi Redevelopment Agency; and 5) Lodi Public Financing Authority

Council Member Mounce made a motion, second by Mayor Pro Tempore Katzakian, to adopt the following resolutions: Resolution No. LPIC2012-01 reorganizing the Lodi Public Improvement Corporation; Resolution No. IDA-35 reorganizing the Industrial Development Authority; Resolution No. LFC-22 reorganizing the Lodi Financing Corporation; Resolution No. RDA2012-01 reorganizing the City of Lodi Redevelopment Agency; and Resolution LPFA2012-03 reorganizing the Lodi Public Financing Authority.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

L. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 9:30 p.m.

ATTEST:

Randi Johl  
City Clerk