



LODI CITY COUNCIL

Carnegie Forum

305 West Pine Street, Lodi

AGENDA – SPECIAL MEETING

Date: March 12, 2019

Time: 7:00 a.m.

*and via conference call:

**1311 Midvale Road
Lodi, CA 95240**

For information regarding this Agenda please contact:

**Jennifer M. Ferraiolo
City Clerk
Telephone: (209) 333-6702**

A. Call to Order / Roll Call

B. Public Hearings

B-1 Continue Public Hearing to April 17, 2019, to Consider Adopting Resolution Authorizing City Manager to Execute Reimbursement Agreement RA-18-01 for Public Improvements Constructed with Lodi Shopping Center (PW)

C. Adjournment

Pursuant to Section 54956.2(a) of the Government Code of the State of California, this agenda was posted at a place freely accessible to the public 24 hours in advance of the scheduled meeting.

Jennifer M. Ferraiolo
City Clerk

All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 72 hours prior to the meeting date. Language interpreter requests must be received at least 72 hours in advance of the meeting to help ensure availability. Contact Jennifer M. Ferraiolo at (209) 333-6702. Solicitudes de interpretación de idiomas deben ser recibidas por lo menos con 72 horas de anticipación a la reunión para ayudar a asegurar la disponibilidad. Llame a Jennifer M. Ferraiolo (209) 333-6702.

****NOTICE:** Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.**



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Continue Public Hearing to April 17, 2019, to Consider Adopting Resolution Authorizing City Manager to Execute Reimbursement Agreement RA-18-01, for Public Improvements Constructed with Lodi Shopping Center

MEETING DATE: March 12, 2019

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Continue public hearing to April 17, 2019, to consider adopting resolution authorizing City Manager to execute Reimbursement Agreement RA-18-01, for public improvements constructed with Lodi Shopping Center.

BACKGROUND INFORMATION: Browman Development Company (BDC), the developer of Lodi Shopping Center, located at the southwest corner of Kettleman Lane and Lower Sacramento Road, entered into an Improvement Agreement with the City, dated July 28, 2015. As required under the conditions of approval for the project and terms of the Improvement Agreement, BDC and by separate agreement, Elliot Homes, Inc. (collectively "Applicants"), completed certain public improvements on Westgate Drive and Century Boulevard. The improvements include the installation of asphalt concrete pavement, concrete curb, gutter and sidewalk, concrete median with landscape, water, wastewater, storm drainage lines, traffic signal modifications at Kettleman Lane and Westgate Drive, wastewater trunk line relocation, storm water basin, and storm water pump station. Portions of the public improvements installed by Applicants benefit properties outside the project area, which lie between Kettleman Lane and Harney Lane.

The public improvements were accepted by City Council on October 19, 2016. The Applicants request a Reimbursement Agreement in conformance with Lodi Municipal Code (LMC) Chapter 17.62, to recover the cost of the improvements benefiting the above mentioned properties, including related costs such as land cost, engineering, inspection, and plan check fees. The Engineer's Report, prepared by SNG Associates, Inc., utilized established engineering principles to determine the appropriate reimbursement for each benefiting property.

Since April 2018, several attempts have been made to conduct a public hearing to consider executing Reimbursement Agreement RA-18-01. In fact, there have been 10 Council requests to either, set, continue, or cancel a public hearing regarding this item because one major property owner, FCB Homes, disagrees with the reimbursement methodology and resulting allocations presented by the Applicants. This disagreement continues to result in threats of potential litigation from both FCB Homes and the Applicants.

A public hearing was finally conducted on February 6, 2019, where Council was provided a presentation by staff outlining the factual history of this specific reimbursement agreement process, along with detailed information demonstrating why the Engineer's Report and corresponding cost allocations to the benefitting properties are appropriately derived in accordance with the City's LMC; followed by the recommendation that Council authorize the City Manager to execute Reimbursement Agreement RA-18-01. The City's

APPROVED: _____
Stephen Schwabauer, City Manager

position has been validated by independent professional engineering and legal peer reviews. During the comment period, an attorney representing FCB Homes provided Council with a two-page hand-out that referenced Sections 17.46.010, 17.62.040, 17.62.050 of the LMC and excerpts from Government Code section 66419 that generated additional questions that staff could not address without additional time to analyze.

Considering the new information provided, and the need for staff to conduct further review, Council chose to continue the February 6, 2019 public hearing until March 12, 2019 to allow staff time to analyze the arguments made by FCB Homes and provide staff's response. Staff engaged outside counsel to provide a legal opinion addressing the arguments made by FCB Homes. The legal opinion will not be completed in time to present at the March 12, 2019 public hearing. For this reason, staff recommends continuing the public hearing to April 17, 2019. Based on video of the Council meeting, it is clear that Council intended to continue the public hearing only for the purpose of revisiting the new arguments.

FISCAL IMPACT: All costs to prepare and administer Reimbursement Agreement RA-18-01 are borne by Applicants.

FUNDING AVAILABLE: Not applicable.

Charles E. Swimley, Jr.
Public Works Director

CES/CES/tdb

cc: Senior Civil Engineer, Nathan
Senior Engineering Technician, Wiman
Public Works Management Analyst
Browman Development
SNG & Associates
Property Owners



DECLARATION OF POSTING

NOTICE OF CONTINUED PUBLIC HEARING TO CONSIDER RESOLUTION AUTHORIZING CITY MANAGER TO EXECUTE REIMBURSEMENT AGREEMENT RA-18-01 FOR PUBLIC IMPROVEMENTS CONSTRUCTED WITH LODI SHOPPING CENTER

On Tuesday, February 12, 2019, in the City of Lodi, San Joaquin County, California, a Notice of Continued Public Hearing to consider resolution authorizing City Manager to execute Reimbursement Agreement RA-18-01 for public improvements constructed with Lodi Shopping Center (attached and marked as Exhibit A) was posted at the following locations:

Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum
Worknet Office

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 12, 2019, at Lodi, California.

ORDERED BY:

**JENNIFER M. FERRAILOLO
CITY CLERK**


PAMELA M. FARRIS
DEPUTY CITY CLERK

SYLVIA DOMINGUEZ
ADMINISTRATIVE CLERK



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF CONTINUED PUBLIC HEARING

Date: March 12, 2019

Time: 7:00 a.m.

For information regarding this notice please contact:

Jennifer M. Ferraiolo
City Clerk
Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Tuesday, March 12, 2019**, at the hour of 7:00 a.m., or as soon thereafter as the matter may be heard, the City Council will conduct a continued public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) **Resolution authorizing City Manager to execute Reimbursement Agreement RA-18-01 for public improvements constructed with Lodi Shopping Center.**

Information regarding this item may be obtained in the Public Works Department, 221 West Pine Street, Lodi, (209) 333-6706. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:


Jennifer M. Ferraiolo
City Clerk

Dated: February 6, 2019

Approved as to form:


Janice D. Magdich
City Attorney

AVISO: Para obtener ayuda interpretativa con esta noticia, por favor llame a la oficina de la Secretaria Municipal, a las (209) 333-6702.



Please immediately confirm receipt of this fax by calling 333-6702

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: NOTICE OF PUBLIC HEARING TO CONSIDER RESOLUTION AUTHORIZING CITY MANAGER TO EXECUTE REIMBURSEMENT AGREEMENT RA-18-01 FOR PUBLIC IMPROVEMENTS CONSTRUCTED WITH LODI SHOPPING CENTER

PUBLISH DATE: SATURDAY, JANUARY 19, 2019

LEGAL AD

TEAR SHEETS WANTED: One (1) please

SEND AFFIDAVIT AND BILL TO: JENNIFER M. FERRAILOLO, CITY CLERK
LNS ACCT. #0510052 City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, JANUARY 17, 2019

ORDERED BY: JENNIFER M. FERRAILOLO
CITY CLERK

Pamela M. Ferris
PAMELA M. FARRIS
DEPUTY CITY CLERK

SYLVIA DOMINGUEZ
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

LNS: Emailed to the Sentinel at classified1@lodinews.com at 9:13 (time) on 1/17/19 (date) _____ (pages)
Phonec to confirm receipt of all pages at _____ (time) _____ EB _____ PMF (initials)



DECLARATION OF MAILING

**PUBLIC HEARING TO CONSIDER RESOLUTION AUTHORIZING
CITY MANAGER TO EXECUTE REIMBURSEMENT AGREEMENT RA-18-01
WITH BROWMAN DEVELOPMENT COMPANY AND ELLIOT HOMES FOR
PUBLIC IMPROVEMENTS CONSTRUCTED WITH LODI SHOPPING CENTER**

On Thursday, January 17, 2019, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing to consider resolution authorizing City Manager to execute Reimbursement Agreement RA-18-01 with Browman Development Company and Elliot Homes for public improvements constructed with Lodi Shopping Center, attached hereto marked Exhibit A. The mailing list for said matter is attached hereto marked Exhibit B.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 17, 2019, at Lodi, California.

ORDERED BY:

**JENNIFER M. FERRAILOLO
CITY CLERK, CITY OF LODI**

A handwritten signature in cursive script that reads "Pamela M. Farris".

PAMELA M. FARRIS
DEPUTY CITY CLERK

ELIZABETH BURGOS
ADMINISTRATIVE CLERK



DECLARATION OF POSTING

NOTICE OF PUBLIC HEARING TO CONSIDER RESOLUTION AUTHORIZING CITY MANAGER TO EXECUTE REIMBURSEMENT AGREEMENT RA-18-01 FOR PUBLIC IMPROVEMENTS CONSTRUCTED WITH LODI SHOPPING CENTER

On Thursday, January 17, 2019, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider resolution authorizing City Manager to execute Reimbursement Agreement RA-18-01 for public improvements constructed with Lodi Shopping Center (attached and marked as Exhibit A) was posted at the following locations:

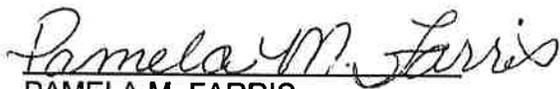
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum
Worknet Office

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 17, 2019, at Lodi, California.

ORDERED BY:

**JENNIFER M. FERRAILOLO
CITY CLERK**


PAMELA M. FARRIS
DEPUTY CITY CLERK

SYLVIA DOMINGUEZ
ADMINISTRATIVE CLERK



CITY OF LODI
Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: February 6, 2019

Time: 7:00 p.m.

For information regarding this notice please contact:

Jennifer M. Ferraiolo

City Clerk

Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, February 6, 2019**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) Resolution authorizing City Manager to execute Reimbursement Agreement RA-18-01 for public improvements constructed with Lodi Shopping Center.**

Information regarding this item may be obtained in the Public Works Department, 221 West Pine Street, Lodi, (209) 333-6706. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

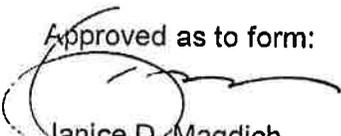
If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:


Jennifer M. Ferraiolo
City Clerk

Dated: January 16, 2019

Approved as to form:


Janice D. Magdich
City Attorney

AVISO: Para obtener ayuda interpretativa con esta noticia, por favor llame a la oficina de la Secretaria Municipal, a las (209) 333-6702.

EXHIBIT B

Name	Address
Lodi LSR Properties, LLC	10100 Trinity Parkway, Suite 420 Stockton, CA 95219
Jacoba Zunino	P.O. Box 520 Woodbridge, CA 95258
Sunset Tartesso, LLC	340 Palladio Parkway, Suite 521 Folsom, CA 95630
2057 Lowsac, LLC	19934 Meadow Oak Drive Woodbridge, CA 95258
Weldon D Schumacher	1303 Rivergate Drive Lodi, CA 95240
Joey Tamura	788 West Armstrong Road Lodi, CA 95242
Robert Van Ruiten	P.O. Box 548 Woodbridge, CA 95258
Earl Rieger	395 East Harney Lane Lodi, CA 95242
Larry D. & D. R. Wells	427 East Harney Lane Lodi, CA 95242
Norene Dietrich	463 East Harney Lane Lodi, CA 95242
Phyllis Mastel	499 East Harney Lane Lodi, CA 95240
Joe Alvarez	533 East Harney Lane Lodi, CA 95242
Robert W. & Jennifer J. Pinnell	2627 West Harney Lane Lodi, CA 95242
Stephen Mann	1018 Laurel Avenue Lodi, CA 95242
W.L. Investors, LP	10100 Trinity Parkway, Suite 420 Stockton, CA 95219