

VOTE:

The above amended motion carried by the following vote:

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

Noes: Council Members – Mounce

Absent: Council Members – None

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Felix Huerta, business agent for the American Federation of State, County, and Municipal Employees, addressed the Council regarding possible recruitment and retention problems in the water treatment plant operator series at White Slough. A number of qualified employees have left to seek employment with other local jurisdictions, and he believed this was a result of the inadequate salary level. The remaining employees work four 10-hour shifts, plus overtime, in order to keep the plant operating, and he believed the City was close to being in violation of the licensing requirements. Mr. Huerta stated that the City recently released a survey that indicated the employees were underpaid by 4.2%. He stated that last year there was an arbitration regarding the salary schedule and linkage between two classifications in the Finance Department, and the resolution was to focus on the issue during this year's negotiations; however, it has not yet been addressed.

Mayor Hitchcock pointed out that negotiations between Council and the bargaining units are typically not conducted publicly and questioned if this was the correct process, to which Mr. Huerta replied that he was simply providing information to the Council.

Mr. Huerta further stated that the City agreed to benchmarking in the current contract, which has not yet been done, and he expressed concern that the unions are not being provided accurate information.

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- David Nielsen reported that Senator Barbara Boxer's office is continuing to research the Patriot Act extension and has directed Mr. Nielsen to www.grants.gov for information on federal grants that can be obtained through the City of Lodi to assist in the efforts to clean up his neighborhood on East Locust Street. He discovered three grants totaling \$22,675,000 for gang education in schools and revitalization or deconstruction of distressed housing that the City may be eligible for, the details of which he provided to the City Manager. Mr. Nielsen submitted a draft ordinance (filed), which would require City inspectors to tour all rental properties larger than single-dwelling homes one time per year, and requested that Council consider adopting it. The ordinance would ensure that residential units are properly maintained and that landlords and tenants comply with the City's housing code. The program would generate money for the City in the form of fees and would reduce gang activity, pest infestation, and injury and would guard against hazardous conditions, thereby protecting property values. Similar programs have been successfully implemented throughout the state and have been unsuccessfully challenged by landlords.

Council Member Beckman questioned why the ordinance singles out single-family dwellings, to which Mr. Nielsen responded that a single-family dwelling typically houses between three and four people; however, multi-dwelling units have several families living together. His goal is to make landlords accountable by managing the properties properly and making the living conditions safe for the tenants and the citizens of the community.

Mayor Pro Tempore Johnson pointed out that state law establishes the number of people per square footage, which is very generous, and he questioned if this would hinder Mr. Nielsen's efforts. Randy Hatch, Community Development Director, responded that the state standards for square footage per occupant are so minuscule that it is meaningless for an occupancy enforcement provision. He was aware of other jurisdictions, including Stockton, that have implemented annual inspection programs who have met with a great deal of controversy, and he suggested that this type of program be researched further before being implemented.

Council Member Mounce stated that Code Enforcement has difficulty gaining access to properties to determine whether or not there are code violations on the inside and she was in favor of reviewing the proposed ordinance and the potential grants presented by Mr. Nielsen.

Council Member Beckman stated that the city of Stockton is putting forward a ballot initiative regarding a rental ordinance and suggested that the City wait to see the outcome of the measure.

In response to Mayor Hitchcock, Mr. Nielsen stated that the ordinance includes fees for inspections and fines. Mayor Hitchcock stated that this matter would be referred to staff and brought back at a future date.

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

- Council Member Beckman requested that a Shirtsleeve Session be scheduled to discuss the issues brought up by Mr. Nielsen, as well as a briefing on the city of Stockton's measure.
- Council Member Hansen provided a report on the status of AB 2021 regarding energy efficiency and SB 1554 regarding exit fees. The 3% per kilowatt hour penalty provision included in AB 2021 has been eliminated, and SB 1554 successfully moved forward in the Senate; however, Assemblyman Levin defeated it and is attempting to rewrite it. Last week, he testified before the Senate Utilities Communications Committee on AB 2987 regarding AT&T providing alternative services in cities. Several issues were brought before the committee, including redlining, public access, fees versus Proposition 218 tax, and abrogation. Cable television supports this bill as a way to eliminate the fees it takes to cities. Rather than have a franchise through local government, it wants the state to control it, and municipalities are fighting to maintain local control. Mr. Hansen reported that the Measure K Expenditure Plan has been approved and the measure will be on the November ballot for renewal as Measure "K." Finally, the Northern California Power Agency approved a resolution regarding the monitoring and eventual reduction of greenhouse gases. He voted in favor of it because it was clear that this matter would be mandatory for all local agencies; however, the implementation of the guidelines would be determined by each individual entity.

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

- City Manager King reported that he and staff have reviewed the three grants mentioned earlier by Mr. Nielsen; one applied to housing authorities and another to education, both of which the City of Lodi would not be eligible for, and the third was a Department of Justice grant, which could potentially be obtained through the Police Department. He stated that staff will continue to look into the matter.

In regard to AB 2987, the interesting turn has been the cable company's endorsement of the legislation, which came with the ability to release itself from local franchise agreements. There are agreements in most local municipal cable franchises that are unique to a city, and if this legislation passes, cities will lose the control to negotiate specific features as the California Public Utilities Commission would be responsible for regulating cable franchise agreements.

Mr. King reported that the deadline for applications for the City Clerk position has been extended to July 28 in order to advertise the position in the City Clerk's Association of California publication and Web site.

Mayor Pro Tempore Johnson cautioned that many grants call for matching funds and that staff to be aware of that when researching these grants, to which Mr. King responded that the grants in question did not include matching requirements.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider adopting a resolution establishing low-income discounts for water and sewer services and further adopting a resolution to place the measure on the ballot for the November 7, 2006, General Municipal Election.

filed 7-5-06
David Nielson

I received a phone call from The Central Valley representative of Senator Barbara Boxer's office today several hours ago.

He requested I make the following statement for the record before continuing. .

The Senator's support team will continue to research the Patriot Act extension. They also have directed me to grants.gov-- where literally 1000's of Federal grants containing Hundreds of millions of dollars can be obtained through the City of Lodi's efforts and the County of San Joaquin. They did NOT direct me to any specific grant but encourages me to study them and will support my efforts or answer any questions. End of Statement.

ON MY OWN I HAVE

located 3 grants the City May be eligible for. I have given the synopsis information to Blaire King for review and research. The Total of the 3 grants is \$22, 675,000.00 for gang education in schools and revitalization or deconstruction of distressed housing. I FOUND THESE GRANTS ON MY OWN. I Request any Lodi Citizen with time to search go to www.grants.gov for other monies the City of Lodi May be eligible to receive.

I would also like to make a request for a new ordinance. To be placed on the agenda of the next council meeting and open for discussion.

According to the 2000 US Census: The city of Lodi has 9384 Renter-occupied housing units. Or 45.35% of the population in Lodi Rents. We all know the census 6 years ago did not include illegal aliens or migrant workers. However they are among us and sleeping within Lodi's City Limit - so we can presume privately owned homes and rental units are overcrowded and the numbers are possibly Higher.

I would like to propose a new city ordinance requiring City Inspectors to Tour all rental properties larger than single dwelling homes 1 per year .

The purpose of this ordinance is to ensure that:

- Residential rental units are properly maintained
- Landlords and tenants comply with the City's Housing Code
- Lives and property of all City residents are protected.

The program should work to reduce gang activity, pests, infestation and injury, plus guards against hazardous conditions and thereby protects property values. There are approximately 9,384 residential rental units throughout the City.

Similar Landlord registration and inspection programs have been successfully instituted in Burlington NJ, Centerville OH, and Columbia Heights MN where This ordinance has already been challenged by landlords and LOST in **United States Court of Appeals FOR THE EIGHTH CIRCUIT** No. 99-2630 Benny Rozman doing business as Lynde Investment Corp VS City of Columbia Heights MN. A \$30.00 Fee would generate very large sums of money for the City and keep our neighborhoods safe, equitable, visually appealing, and assist in making them gang free.

(You can access the case at:

<http://caselaw.lp.findlaw.com/data2/circs/8th/992630p.pdf>)

Section : Residential Rental unit mandatory Annual inspection required.

A. The owner or operator of a premise with a multi residential rental unit shall have the interior and exterior of the premises, its structures and its rental units inspected annually, to determine compliance with the Lodi Municipal Property Maintenance Code and Zoning Code.

B. The owner or operator of a premise with a multi rental unit is

subject to have the interior and exterior of the premises, its structures and its rental units inspected prior to the annual inspection under the following circumstances:

1. The absence of or the expiration of a registration certificate.
2. If two or more notices and orders to comply have been issued to the owner or operator pursuant to any section of this chapter relating to the violation of any sections of the codes set forth in this section above, within any two year period, concerning the same premises, and have not been complied within the time provided in the notices and orders to comply, the premises that was the subject of the notices and orders to comply shall be subject to mandatory inspections as specified in this section;
3. If the owner or operator has been convicted of a violation of any sections of the codes set forth in this section above, all premises and structures with a rental unit that the owner owns or that the operator operates shall be subject to mandatory inspections as specified in this section; and
4. If the owner or operator has had a premises ordered razed by the Code Official, all premises and structures with a rental unit that the owner owns or that the operator operates shall be subject to mandatory inspections as specified in this section.
5. In response to a complaint of an alleged violation of any of the provisions of this Chapter or the provisions of the applicable City of Lodi codes.

6. A notice and order to comply that is outstanding on or after _____, 2006, or that is issued subsequent to _____, 2006, may constitute a noncompliance notice and order to comply for purposes of enforcement of the mandatory inspections required by subsection of this section.

D. A conviction that was obtained on or after _____, 2006 shall constitute a conviction for purposes of enforcement of the mandatory inspections required by subsection of this section.

E. A raze order that the Code Official issued on or after _____, 2006 shall constitute a raze order for purposes of enforcement of the mandatory inspections required by subsection of this section.

F. No owner or operator of a premises with a multi rental unit shall fail to obtain a rental unit mandatory inspection from the Division of Inspection when the provisions of this section require a rental unit mandatory inspection.

G. \$30.00 fee shall be required for the annual mandatory inspection.

H. A rental unit mandatory re-inspection fee of \$75 per hour for each re-inspection subsequent to the first inspection shall be paid.

Section Access to Rental Unit

A. Access by Owner or Operator
Every occupant of a rental unit shall give, upon proper notice, the owner or operator thereof, or his/her agent or employee, access to any part of such rental

unit at all reasonable times for the purpose of effecting such maintenance, making such repairs or making such alterations as are necessary to effect compliance with any lawful notice or order issued pursuant to the provisions of the applicable City of Lodi codes.

B. Access by Code Official

The Code Official or his/her duly authorized designee is hereby authorized to conduct inspections of any rental unit within the City of Lodi in order to perform the duty of safeguarding the health, safety and welfare of the occupants and the public under the provisions of this chapter. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter or the provisions of the applicable City of Lodi codes or whenever the Code Official or his/her duly authorized designee has probable cause to believe that there exists in any rental unit any condition which makes such rental unit in violation of any of the provisions of this Chapter or the provisions of the applicable City of Lodi codes or in response to a complaint that an alleged violation of any of the provisions of this Chapter or the provisions of the applicable City of Lodi codes may exist, the Code Official or his/her duly authorized designee may enter such rental unit at all reasonable times to inspect the same or to perform any duty imposed upon the Code Official by this Chapter or the provisions of the applicable City of Lodi codes, provided that if such rental unit is occupied, he/she shall first make a reasonable effort to locate the owner/operator, occupant

or other person having charge or control of the rental unit and request entry giving 24-hour notice, when applicable, to the tenant. The Code Official or his/her duly authorized designee shall at such time:

1. Identify himself/herself and his/her position;
2. Explain why entry is sought;
3. Explain that the owner/operator or other person(s) having charge or control of the rental unit may refuse, without penalty, entry without a search warrant;
4. Provide documentation of written notice to the owner/operator giving 7-day notice of deficiency. (Such notice shall not be construed to imply that the repairs need be completed at that time.)

C. Search Warrant.

If consent to inspect a rental unit is withheld by any person or persons having the lawful right to exclude, the Code Official or his/her duly authorized designee may apply to a court of competent jurisdiction for a search warrant of the rental unit. No owner/operator or occupant or any person having charge, care or control of a rental unit shall fail or neglect, after presentation of a search warrant, to properly permit entry therein by the Official or his/her duly authorized designee for the purpose of inspection and examination pursuant to this Chapter.

Section : Notice of Violation

Whenever, upon inspection of a dwelling unit which has been registered as herein provided, the Code Official finds that conditions or practices exist which are

in violation of ordinances of the City of Lodi, any authorized notice of violation shall state that unless the violations are corrected as specified in the notice, the registration certificate for the property on which is located the dwelling unit exhibiting violations may be suspended or revoked.

Section: Appeal

A. Any owner whose landlord registration certificate has been suspended or revoked shall be entitled to appeal the order of revocation or suspension to the Property Review Commission pursuant to Chapter by filing a notice of appeal with the Clerk of Council within 15 days following the date of the notice of revocation or suspension.

B. A landlord registration certificate which has been revoked or suspended as herein provided and the suspension or revocation was not appealed or was sustained upon appeal, shall not be reinstated. The owner may, however, obtain a new landlord registration certificate by filing a new application for a landlord registration certificate as provided for in this section. Such new application must be accompanied by an administrative fee as provided in Lodi Municipal Code and such fee shall not be waived.

Section : Penalty

A violation of the requirements shall constitute a fourth degree misdemeanor, punishable by a fine of not more than \$250.00 or imprisoned not more than thirty days, or both, for each offense. Each day, such violation is continued, shall constitute a separate offense. Section 2, This ordinance shall be effective from and after the earliest date allowed by

law.

PASSED THIS _____ day of _____, _____.

Mayor of the City of
Lodi, CA

ATTEST:

Clerk of Council
City of Lodi, CA

CERTIFICATE

The undersigned, Clerk of Council of the City of Lodi, CA, hereby certifies the foregoing to be a true and correct copy of Ordinance No.

_____,
passed by the Council of the City of Lodi, CA on the _____ day of

Clerk of the Council

Approved as to form, consistency with the
City of Lodi Municipal Ordinance and Constitutional Provisions.

Department of Law

Lodi City Attorney