



**CITY OF LODI  
COUNCIL COMMUNICATION**

TM

**AGENDA TITLE:** Introduce Ordinance Amending Lodi Municipal Code Chapter 2.44 – Personnel System by Repealing and Reenacting Sections 2.44.070 "Composition of Board - Vacancies" and 2.44.100 "Hearing of Appeals."

**MEETING DATE:** November 3, 2010

**PREPARED BY:** City Attorney's Office

---

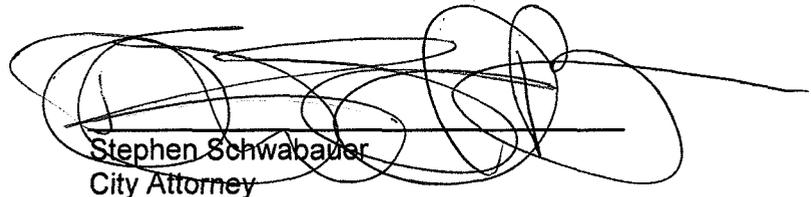
**RECOMMENDED ACTION:** Introduce Ordinance Amending Lodi Municipal Code Chapter 2.44 – Personnel System by Repealing and Reenacting Sections 2.44.070 "Composition of Board - Vacancies" and 2.44.100 "Hearing of Appeals."

**BACKGROUND INFORMATION:** The Personnel system Ordinance establishes a Board to hear and determine employee appeals. In recent action, the City Council revised the Rules for Personnel Administration to make the Personnel Review Board's decisions advisory to the City Manager rather than the City Council. This amendment will make a parallel change to Lodi Municipal Code Section 2.44 by making Board decisions advisory to the City Manager and expanding Board membership from three to five.

As currently configured, these changes have no effect because the City's Memoranda of Understanding provide for binding arbitration, which bypasses the Personnel Board.

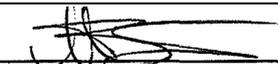
**FISCAL IMPACT:** None.

**FUNDING:** None.

  
Stephen Schwabauer  
City Attorney

---

**APPROVED:**

  
Konrad Bartlam, Interim City Manager

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING LODI MUNICIPAL CODE CHAPTER 2.44 – PERSONNEL SYSTEM BY REPEALING AND REENACTING SECTIONS 2.44.070 COMPOSITION OF BOARD-VACANCIES AND 2.44.100 HEARING OF APPEALS - RELATING TO EXPANDING BOARD MEMBERSHIP FROM THREE TO FIVE AND MAKING BOARD DECISIONS ADVISORY TO THE CITY MANAGER

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Section 2.44.070 Composition of Board – Vacancies - is hereby repealed and reenacted, and shall read as follows:

2.44.070 Composition of Board – Vacancies

The personnel board of review created under this article shall consist of ~~three~~ **five** members to be appointed by the City Council. Vacancies on the personnel board, from whatsoever cause, shall be filled by appointment by the City Council. ~~Two~~ **Three** of the ~~three~~ **five** members shall constitute a quorum and may conduct business.

Section 2. Lodi Municipal Code Section 2.44.100 Hearing of Appeals - is hereby repealed and reenacted, and shall read as follows:

2.44.100 Hearing of Appeals

A. As provided in this article, by rule adopted hereunder or by memoranda of understanding between the city and employees' bargaining units, the board shall hear appeals by any person in the classified service relative to any situation involving the employees' status or conditions of employment, including disciplinary matters.

B. Unless provisions to the contrary contained in any memoranda of understanding or pertinent law require otherwise, the findings and actions of the board are deemed advisory only to the ~~appointing authority~~ **City Manager**. If memoranda of understanding or law provide differently, then such findings or actions shall be deemed final action by the City, and reviewable under administrative mandamus provisions of state law.

Section 3. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this \_\_\_\_ day of November, 2010.

\_\_\_\_\_  
PHIL KATZAKIAN  
Mayor

Attest:

\_\_\_\_\_  
RANDI JOHL  
City Clerk

State of California  
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held November 3, 2010, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. \_\_\_\_ was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

\_\_\_\_\_  
Randi Johl  
City Clerk

Approved as to Form:

\_\_\_\_\_  
D. STEPHEN SCHWABAUER  
City Attorney