

CITY COUNCIL MEETING  
MAY 17, 1989

RAY DAVENFORT REQUESTS  
COUNCIL TO CONSIDER  
PETITION PREVIOUSLY  
SUBMITTED

CC-30  
CC-34

Mr. Kay Davenport, 23324 North Dustin Road, Acampo, requested Council to consider the petition previously submitted requesting the City Council to hold the appointment of Battalion Chief or Fire Shift Supervisor in abeyance for a reasonable time to grant the petitioner (Mr. Ray Davenport) an arbitration proceeding. Upon advice of the City Attorney, the City Council deferred any action due to the fact that this matter is in litigation.

M E M O

TO: LODI CITY COUNCIL MEMBERS  
FROM: RAY DAVENPORT  
DATE: MAY 12, 1989  
SUBJECT: PLACEMENT OF ITEM ON CITY COUNCIL AGENDA

On **May 9**, 1989, the City issued a job flyer for Fire Department Battalion Chief.

On **May 10**, 1989, I received a flyer from a friend.

On **May 11**, 1989, at approximately 9:30 a.m., I hand delivered requests for the City Council to be placed on the agenda of **May 17**, 1989.

I expressed my concern to the City Clerk and it **was** my understanding that the two petitions **would be** available to you as a normal course of business on **May 17**, 1989.

However, the City Clerk informs me that I was mistaken and the item submitted for Council consideration was not placed on the agenda because it was not timely.

Today, I talked to Mr. Peterson and although he acknowledged the subject matter he also assured me the items submitted by me were **untimely** for the **May 17**, 1989 meeting.

I asked Tom if perhaps they could **be** brought before the council as a non agenda item and he said "no".

I **asked Tom** if they could be brought before the council as per Govt. Code 54954.2(b) the need to take action on the item arose subsequent to the agenda's being **posted**. His reply was "no" and he stated "no emergency situation exists."

Enclosed is a format for agenda items. Mr. Peterson stated "no format exists in printed form. Perhaps mine is out dated?"

It seems reasonable to me that this small item could be inserted or added to the agenda; since the agenda was not yet printed.

I know in the past things have appeared on the agenda with very short notice and the council does often times consider non agenda or late items.

The **job** flyer appears to have surfaced with precision timing so that I would not have any opportunity whatsoever to communicate with the council on **May 17**, 1989; except for the five minute comments by the public on non agenda items.

I am sending you this letter to request that you consider placing this petition for council consideration on May 17th, closed session or in the alternative I request you call a special meeting before May 24, 1989, which is one day set for testing and awarding my job to another Fire Department member.

I realize you have many important items on the agenda and a busy schedule. However, even though it may not be an emergency to some people these time frames and your decision is an emergency to me and my family and will impact the lives of many people for years to come.

Thank you.

Sincerely

*Ray Davenport*  
Ray Davenport

RECEIVED

1989 MAY 11 AM 9 50

MICHELLE W. MOORE  
CITY CLERK  
CITY OF LODI

May 10, 1989

**PETITION**  
**TO LODI CITY COUNCIL**

**BACKGROUND**

*The Lodi Personnel Board of Review has not been used substantially in the past twenty five years and not at all for the Fire Department except for the recent hearing of the petitioner.*

*This board is currently not in place and is the subject of extensive controversy.*

*The City has in place with the Police and Fire Units an Arbitration procedure which is designed to be fair and workable to both the employer and the employee.*

**PURPOSE**

*The purpose of this petition is to provide an avenue for resolution and extinguishment of a good faith grievance set in motion by City Manager Tom Peterson by his letter of termination of petitioner February 12, 1988.*

**RATIONALE**

*A hearing was held where the letter of termination by City Manager Tom Peterson was never addressed.*

*By having a closed hearing in a formal arbitration both parties will be benefited.*

*The cloud of unfairness will be lifted by having an arbitrator who is agreed to by both sides and the letter of termination decided on the merits of the accusations contained therein.*

*The arbitration is available to other Safety members within the City. Applying arbitration to this situation under the circumstances would reestablish good faith and fair dealings to all parties, for the present and future disputes that may arise.*

An independent unbiased arbitrator will serve as a safety valve and protection for emotional issues where parties become embroiled in a controversy.

I estimate the hearing to take one to three days.

PRAYER

On May 17, 1989, I petition the City Council, the elected governing body of the City of Lodi, to grant petitioner an Arbitration Proceeding, as set forth in the current Lodi Police and Fire Department Memorandum of Understanding.

Petitioner's Council will be Mastagni Holstedt and Chiurazzi . /

Ray Davenport  
Lodf Fire Department

A YES

NOES

Mayor Randy Snider  
Council Member Jim Pinkerton  
Council Member David Hinchman  
Council Member Fred Reid  
Council Member Evelyn Olson

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Alice Remiche  
City Clerk

May 17, 1989

May 10, 1989

RECEIVED

1989 MAY 11 AM 9:59

ALICE L. WATSON  
CITY CLERK  
CITY OF LODI

**PETITION**  
**TO LODI CITY COUNCIL**

**BACKGROUND**

The Lodi Fire Department is currently one man below Council approved manpower authorization.

This situation exists because of City Manager Tom Peterson terminating petitioner February 12, 1988.

**PURPOSE**

The purpose of this petition is to request the City Council to hold the appointment in abeyance for a reasonable time.

**RATIONALE**

This position is currently held by petitioner; but for the letter of termination by City Manager Tom Peterson.

Petitioner has been a faithful member of the Lodi Fire Department for twenty years and has a exemplary record.

This position Battalion Chief or Efre Shift Supervisor, was established in 1983 and petitioner was instrumental in establishing the duties and responsibilities of the position.

A dispute arose in the Fire Department with Chief Hughes as Department Head.

Petitioner was a party to the dispute and Chief Hughes and Tom Peterson, City Manager, made a unilateral decision of which the petitioner is and has been attempting to resolve.

If the City Council would grant the petitioner an Arbitration to resolve the letter of termination by City Manager, Tom Peterson the need for a new man on the position would be ascertained depending on the outcome of the arbitration.

PRAYER

On May 17, 1989, I petition the City Council, the elected governing body of the City of Lodi to hold the appointment of Battalion Chief or Fire Shift Supervisor in abeyance for a reasonable time.

The sole purpose of such abeyance would be to provide an opportunity for an arbitration to resolve and extinguish a good faith grievance advanced by the petitioner.

Ray Davenport  
Lodi Fire Department

Mayor Randy Snider  
Council Member Jim Pinkerton  
Council Member David Hinchman  
Council Member Fred Reid  
Council Member Evelyn Olson

AYES

NOES

_____	_____
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Alice Remiche May 17, 1989  
City Clerk

Rec'd May 10 1989



# THE CITY OF LODI

Invites Applications For The Position Of

May 10, 1989

FIRE SHIFT SUPERVISOR  
(BATTALION CHIEF)  
(Promotional)

SALARY: \$2812.- \$3418. (Approximate monthly salary)

FINAL FILING DATE: Applications must be received in the Personnel Dept. no later than Friday, May 19, 1989.

THE POSITION:

Under the direction of the Fire Chief and the supervision of the Fire Administration officer in charge of Operations, The Fire Battalion Chief is responsible for the supervision of all of the personnel and operations of a fire shift, and does other related work as required. Typical duties include but are not limited to: assigning personnel to fire stations; planning and organizing the work of a fire shift; preparing records and reports and monthly schedules; supervising of captains and working with them to coordinate the work of a shift; administering discipline; administering training to shift personnel.

MINIMUM QUALIFICATIONS:

Knowledge of: Rules, policies, and procedures governing the fire department; management principles and methods including supervision and program development; firefighting methods, techniques, and equipment; principles of hydraulics, location of local water mains, fire hydrants and other firefighting facilities; local geography, including streets and buildings; principles of first aid.

Skill to: Apply Fire Department rules, instructions, and firefighting methods to specific situations; plan, train, and direct the work of subordinates; communicate effectively, both orally and in writing; establish and maintain effective working relationships with department personnel, officials, and the general public.

Experience: One year of experience as a Fire Captain.

SELECTION PROCESS: The selection process is tentative. Applicants will be notified if changes are made.

Evaluation of Qualifications: Applications will be screened to determine if applicants meet the minimum qualifications as outlined on the job announcement. Candidates meeting qualifications will be invited to an assessment center.

Assessment Center:

An assessment center will be used to review the applicant's experience level and possession of the required knowledges, skills, and abilities (weighted 100%).

Applicants who pass the assessment center will be placed on a ranked eligible list. The assessment center will be held on Wednesday May 24, 1989.

CITY COUNCIL AGENDA/PACKET SCHEDULE

- I. Council Meetings - 1st & 3rd Wednesday night of each month.
- II. Agenda titles due in City Clerk's office by noon on Tuesday, eight days prior to Council meeting.
- III. Afternoon Tuesday, eight days prior to Council meeting, draft Agenda prepared. City Clerk meets with City Manager to review draft Agenda.
- IV. Council Communications in blue folder due in City Clerk's office by noon on Wednesday, seven days prior to Council meeting.
- V. Council Communications checked to see that they are complete; that all have been received; and placed in order as shown on Agenda. Packet indices are prepared.
- VI. Afternoon, Wednesday, seven days prior to Council meeting, Council Communications are reviewed with City Manager. Direction received from City Manager regarding changes, additions or deletions.
- VII. Morning, Thursday, six days prior to Council meeting. All changes reviewed with City Manager. Packet information receives final review and documents are signed by City Manager.
- VIII. 1:00 p.m., Thursday afternoon, six days prior to Council meeting. packet is run, collated and delivered. Total of 18 packets prepared.

Ray Davenport  
23324 N Dustin Road  
Acampo, California 95220

*Please consider the following facts*

*On February 12, 1988, City Manager Tom Peterson terminated me  
From my job,*

*Since that day the following has transpired:*

- Never at any time have I been allowed to talk to a Judge.*
- I was terminated without a hearing,*
- I have not had the opportunity to call even one witness on my behalf.*
- The City has not proven even one charge or allegation.*
- I have never had the opportunity to confront the people making the accusations, Tom Peterson and Larry Hughes.*
- I have had never had an opportunity to defend myself.*
- Tom Peterson and Larry Hughes refuse to take the stand.*
- An unbiased hearing has never been held on the merits.*

*Chief Hughes placed a charge of INSUBORDINATION in my file  
February 5, 1986. He also changed my working conditions.*

*This charge is Larry Hughes opinion and has never been  
proven or even addressed.*

*from the day Larry Hughes came to the Lodi Fire Department  
he has made false charges and documentation which are untrue and  
unproven in an effort to remove me from the Department.*

*Tom Peterson hired Larry Hughes and is assisting him.*

Lodi Fire Dept Procedure

Article C  
Section 16

Written by Chief Hughes

Whenever an employee is off on sick leave for more than three (3) working days a doctors certificate or a personal affidavit shall be required as per the City of Lodi Administrative Policy Manual.

#### INSUBORDINATION

All employees shall obey the directions given them by their supervisors. Failure to obey shall constitute an act of insubordination.

Actions by an employee towards a supervisor are classed as insubordination where those actions involve a resistance to, or a defiance of, his/her authority. Two of the most common types of insubordination are insolent or obscene language when used to challenge a supervisors authority and the refusal to obey an order of a supervisor.

The rule of "work now, grieve later" is well established and is a good one to go by to avoid charges of insubordination.

#### CITY AND PERSONAL PROPERTY

Theft of City Property or the personal property of others will be grounds for dismissal.

The personal locker of each employee, the desks in each office, file cabinets, and other areas, materials, and equipment which are significant to certain personnel shall be protected and used only by those who have authorization.

No employee shall enter the locker of any other employee without the locker resident being present.

Desks and files in the offices are for the use of the personnel assigned to that office. The master files are open to all personnel who have knowledge of and need for their use.

#### EMPLOYEE CONDUCT OUTSIDE OF WORK HOURS

Due to the nature of our work there are certain standards of conduct which are necessary and must be applied when away from work.

If an employees conduct away from work meets any of the following standards it could be considered for, disciplinary action.

-- was it sufficiently injurious to the interests of the employer.

-- did the employee act in a manner incompatible with the due and faithful discharge of his/her duties.

# Lodi Fire Dept Procedure

Article: C  
Section: 15  
Subject: Employee Performance and Conduct  
Page: 6

response. An employee may in some instances be suspended on the spot. Such action is reserved for cases, where, for example, the employee's continued presence constitutes a clear threat to the **safety of** other employees, or the public.

Suspension action can only be instituted by the Fire Chief and/or the City Manager; except in those cases where the employees continued presence constitutes a clear threat to the safety of others, **at** which time any supervisor may suspend ; with pay.

## Demotion

Demotion is the removal of an employee from his/her present position to a lower paying position or salary step.

Demotion can only be instituted by the City Manager.

## Discharge

Discharge is the permanent removal of an employee from service. This action should only be taken when management is thoroughly satisfied that the employee has been given every opportunity to meet performance or behavior standards and has clearly failed to do so. Discharge is seldom used for a first offense unless the violation is so serious that no other response is appropriate.

Discharge can only be instituted by the City Manager.

## Resignation: An Alternative to Disciplinary Action

Sometimes an employee may offer to resign instead of facing disciplinary action. By doing so, the employee loses the right to appeal. However, the inquiries from future employers regarding the reason for leaving will be answered (in most cases) by the simple statement that the employee resigned.

No employee can be compelled to resign; resignation must be entirely voluntary. Otherwise the employee may later claim the resignation was made under duress and constitutes a "constructive discharge."