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RES

CITY COUNCIL MEETING

May 19, 1982

RES. ADOPTED  
MAKING  
APPLICABLE THE  
PROVISIONS OF  
CODE OF CIVIL  
PROCEDURE SECTION  
1094.6 PROVIDING  
FOR JUDICIAL  
REVIEW OF  
ADMINISTRATIVE  
DECISIONS

City Attorney Stein apprised the Council that at a recent conference, he learned that in order to limit the amount of time in which an individual can file an appeal to the Superior Court from an administrative decision, it is necessary for the City to pass a resolution adopting Code of Civil Procedure Section 1094.6. Following a detailed explanation by the City Attorney and Council discussion, Council, on motion of Mayor Reid, Pinkerton second, adopted Resolution No. 82-49 - Resolution of the City Council of the City of Lodi, making applicable the provisions of Code of Civil Procedure Section 1094.6 providing for judicial review of administrative decisions.

RES. NO. 82-49

RES

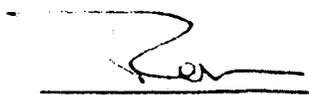
COUNCIL COMMUNICATION

|  |                      |     |
|--|----------------------|-----|
| TO THE CITY COUNCIL<br>FROM: THE CITY MANAGER'S OFFICE     | DATE<br>MAY 17, 1982 | NO. |
| SUBJECT: Time Limit on Appeals of Administrative Decisions |                      |     |

At a recent conference, I learned that in order to limit the amount of time in which an individual can file an appeal to the Superior Court from an administrative decision, it is necessary for the City to pass a resolution adopting Code of Civil Procedure Section 1094.6. One City was sued 4-1/2 years after an administrative decision to terminate an individual and the City was required to pay 4-1/2 years' in back wages.

The areas with which I am concerned are not only the personnel areas, but decisions regarding land use matters.

With this in mind, it is my recommendation that Council pass the Resolution which is included in your packets.

  
\_\_\_\_\_  
RONALD M. STEIN  
CITY ATTORNEY

RMS:vc

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
LODI, MAKING APPLICABLE THE PROVISIONS OF  
CODE OF CIVIL PROCEDURE SECTION 1094.6  
PROVIDING FOR JUDICIAL REVIEW OF ADMINISTRATIVE  
DECISIONS.

WHEREAS, California Code of Civil Procedure Section 1094.6(g) permits the governing body of a local agency to adopt a resolution making Code of Civil Procedure Section 1094.6 applicable to such local agency; and

WHEREAS, the Council finds and determines that such will provide an orderly and reasonable procedure for the review of administrative decisions;

NOW, THEREFORE, the City Council of the City of Lodi HEREBY RESOLVES that the provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to the City of Lodi.

Dated:

3/22/82

MEMORANDUM

To: City Manager  
 Assistant City Manager

From: City Attorney

Re: Resolution re Judicial Review of  
 Administrative Decisions

Date: May 10, 1982

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The attached resolution should be passed by the City Council of the City of Lodi as soon as possible. This resolution will put into effect a 90-day statute of limitations on any cause of action which is filed in the Superior Court to review an administrative decision. Specifically, this would avoid a land use decision or a personnel decision being reviewed two, three or four years after the actual decision was made by the City Council.

It is suggested that although this resolution is not subject to the meet and confer provisions of the Meyers-Milias-Brown Act, that we do in fact let the employee representatives know of this resolution.

It is my suggestion that we put this on the next City Council Agenda for passage.

  
 \_\_\_\_\_  
 RONALD M. STEIN  
 CITY ATTORNEY

RMS:vc  
 attachment  
 cc: City Clerk

CODE OF CIVIL PROCEDURE SECTION 1094.6, Continued

If the employee or his/her representative so requests, the complete record of the proceedings must be prepared by the local agency, or the board or other agent which made the decision, and delivered within ninety days after the written request is filed. The agency may recover the actual costs for transcribing or otherwise preparing the record.

Below is a sample resolution that may be adopted by your agency. It is suggested that the adoption of this resolution will avoid the problems at least one City was forced to resolve through costly litigation.

It is suggested that you issue an appropriate directive to personnel involved in administering your disciplinary appeals procedure to explain the implementation of the resolution. You will also want to reference this resolution any time you outline the administrative appeal procedures contained in the Personnel Ordinance, Personnel Rules and Regulations, and/or the Memorandum of Understanding.

While this issue is certainly not beyond dispute, we believe that the type of resolution suggested is not subject to the "meet and confer" provisions of the Meyers-Milias-Brown Act.

SAMPLE RESOLUTION

*should be adopted by City Council*

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, MAKING APPLICABLE THE PROVISIONS OF CODE OF CIVIL PROCEDURE SECTION 1094.6 PROVIDING FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

WHEREAS California Code of Civil Procedure Section 1094.6(g) permits the governing body of a local agency to adopt a resolution making Code of Civil Procedure Section 1094.6 applicable to such local agency; and

WHEREAS the Council finds and determines that such will provide an orderly and reasonable procedure for the review of administrative decisions,

NOW THEREFORE, the City Council of the City of \_\_\_\_\_ HEREBY RESOLVES that the provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to the City of \_\_\_\_\_.

APPROVED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.