

CITY COUNCIL, CITY OF LODI  
CITY HALL COUNCIL CHAMBERS  
WEDNESDAY, APRIL 19, 1989  
7:30 P.M.

ROLL CALL Present: Council Members - Hinchman, Olson, Reid,  
Pinkerton and Snider (Mayor)  
Absent: Council Members - None  
Also Present: City Manager Peterson, Assistant City  
Manager Glenn, Community Development  
Director Schroeder, Public Works Director  
Ronsko, City Attorney McNatt, and Deputy  
City Clerk Johnson

INVOCATION The invocation was given by Pastor Loren G. Stacy, Church  
of God-Seventh Day

PLEDGE OF ALLEGIANCE The Pledge of Allegiance was led by Mayor Snider.

PRESENTATIONS

PROCLAMATIONS Mayor Snider presented the following proclamations:

- CC-37 a) "Reading is Fundamental Week"
- b) "Water Awareness Week"

MAYOR PRO TEMPORE  
HINCHMAN INTRODUCES  
FAMILY MEMBERS IN  
AUDIENCE

Mayor Pro Tempore Hinchman introduced his sister and  
brother-in-law, Mr. and Mrs. Bob Landers who were visiting  
from Irvine, California.

CONSENT CALENDAR

In accordance with report and recommendation of the City  
Manager, Council, on motion of Council Member Reid,  
Hinchman second, approved the following items hereinafter  
set forth with the exception of agenda item E-7 - "Approve  
retaining E&V Construction Services for construction  
management of City Hall Expansion Project", which was  
removed from the Agenda.

Mayor Snider asked to abstain from discussion and voting on  
agenda item E-10 "Accept improvements for Parkview Terrace,  
located at the northeast corner of Lower Sacramento Road  
and Lodi Avenue" because of a possible conflict of interest.

\*\*\*\*\*

CLAIMS CC-21(a) Claims were approved in the amount of \$1,356,111.28.

MINUTES No minutes were presented for approval.

SPECIFICATIONS  
FOR THE PURCHASE  
OF CLASS 2 AND  
CLASS 3 WOOD  
UTILITY POLES  
APPROVED

CC-12.1(c) The City Council approved the specifications for the  
purchase of twenty-one (21) Class 3 and seven (7) Class 2  
wood utility poles and authorized advertising for bids.

The City Council was advised that the bid opening date has  
been set for Wednesday, May 3, 1989.

Poles in seven lengths are included in this bid:

Continued April 19, 1989

Class 3	Class 2
10 ea 45-foot	2 ea 75-foot
10 ea 55-foot	2 ea 80-foot
1 ea 70-foot	2 ea 85-foot
	1 ea 90-foot

The Class 3 poles will be purchased to support the electric Utility Department's ongoing maintenance program of replacing damaged or deteriorated poles currently in service. The Class 2 poles are being purchased to meet the Utility Department's revised minimum inventory standards.

The estimated cost of this purchase is \$16,000, with delivery expected about six weeks after placement of order. Funding is available in the Electric Utility Department's operating fund.

AWARD PURCHASE OF  
ONE UTILITY VAN  
BODY TRUCK

RES. NO. 89-40

CC-12(d)  
CC-300

The City Council adopted Resolution No. 89-40 awarding the bid for one utility van body truck to the low bidder Pac Power, Inc., Dixon, CA, in the amount \$30,607.50.

The City Council was reminded that on March 15, 1989, the City Council approved specifications and authorized advertisement for bids on this item. Bids were opened on April 7, 1989 with the following results:

Pac Power, Inc. Dixon, CA \$30,607.50

Sanborn Chevrolet Lodi, CA 30,919.08 \*  
(\* Bid exception to several items)

This unit is for replacement of existing truck #27 used by the troubleshooting/service call section of the Electric Utility Department.

Funding for this purchase (\$30,000) was included in the 1988-89 fiscal year budget, as well as funding for two line trucks. The line trucks have been bid and awarded at a price of \$7,790.30 below budgeted amount. It is recommended that the \$607.50 deficiency in budgeted funding for this specific purchase be offset by utilizing necessary remaining funds from the line truck purchase.

It should be noted that some specialized tools were included as "Optional Items" with the bid. However, due to the actual bid price of this unit, none of these optional tools are recommended for purchase at this time.

AWARD CONTRACT  
FOR STREET  
IMPROVEMENTS,  
GUILD AVENUE  
(LODI AVENUE TO  
PINE STREET) AND  
LODI AVENUE (680  
FEET EAST OF CLUFF  
AVENUE TO GUILD  
AVENUE)

RES. NO. 89-41

CC-12(a)  
CC-300

The City Council adopted Resolution No. 89-41 authorizing the City Manager to award the contract for Street Improvements, Guild Avenue (Lodi Avenue to Pine Street) and Lodi Avenue (680 Feet east of Cluff Avenue to Guild Avenue)

Continued April 19, 1989

to Claude C. Wood Company in the amount of \$111,478.50 and appropriated an additional \$75,000 from the Gas Tax (32.0) Fund to complete the project.

The City Council was advised that this project will be done in conjunction with the development of Griffin Industrial Park. The City is responsible for the street improvements on the south half of Lodi Avenue and the east half of Guild Avenue. The Griffin Industrial Park developers are studying their financing to determine whether or not they will go ahead with their project. If they decide to proceed with the project, the City Manager will award this street improvement contract. Claude C. Wood Company has indicated they will hold their price at least for another month.

When this City project was budgeted, it was anticipated that Griffin Industrial Park would be constructed in two phases. Additional funds were to be budgeted when the second phase was developed. Because the Griffin Industrial Park developers are considering the construction of the entire subdivision at this time, additional funds are needed now. It is recommended that an additional \$75,000 be appropriated from the 32.0 Fund if the contract is awarded.

Plans and specifications for this project were approved on March 1, 1989. The City received the following three bids for this project:

<u>Bidder</u>	<u>Location</u>	<u>Bid</u>
Engineer's Estimate		\$117,460.00
Claude C. Wood Company	Lodi	\$111,478.50
Granite Construction	Stockton	\$116,984.00
Teichert Construction	Stockton	\$128,576.00

IMPROVEMENTS UNDER  
LANE LINE PAINTING  
VARIOUS STREETS,  
1988, CONTRACT  
ACCEPTED

CC-90

The City Council accepted the improvements for "Lane Line Painting, Various Streets, 1988", and directed the Public Works Director to file a Notice of Completion with the County Recorder's office.

The City Council was advised that the contract was awarded to Central Striping Service, Inc., Rancho Cordova, on December 21, 1988, in the amount of \$14,990.20. The contract has been completed in substantial conformance with the plans and specifications approved by the City Council.

The contract completion date was January 29, 1989 and the actual completion date was March 25, 1989. The delay in completing the project was due to the City placing a "Temporary Suspension of Work" until the weather was more conducive to the application of paint on traffic stripes. The final contract price was \$15,047.20. The difference between the contract amount and the final contract price is mainly due to exact measurements taken by the contractor of all lane lines painted.

ITEM REMOVED FROM  
AGENDA - AGENDA  
ITEM E-7

Agenda item E-7 "Approve Retaining E&V Construction Services for Construction Management of City Hall Expansion Project" was removed from the agenda.

Continued April 19, 1989

FINAL MAP AND  
SUBDIVISION  
AGREEMENT FOR  
CENTURY PLACE,  
LOCATED AT THE  
NORTHWEST CORNER  
OF CHEROKEE LANE  
AND CENTURY BOULEVARD  
APPROVED

CC-46

The City Council approved the final map for Century Place and directed the City Manager and City Clerk to execute the Subdivision Agreement and map on behalf of the City.

The City Council was advised that Conejo Builders, the developer of this subdivision, has furnished the City with the improvement plans, the necessary agreements, guarantees, insurance certificates and fees for the proposed subdivision.

The subdivision is located at the northwest corner of Cherokee Lane and Century Boulevard and contains a total of 35 single-family lots.

PURCHASE AGREEMENT  
FOR 321 SOUTH  
HUTCHINS STREET  
APPROVED

CC-27(a)

The City Council approved the purchase agreement for 321 South Hutchins Street and authorized the City Manager and City Clerk to execute the agreement.

The City Council was advised that the reconstruction of Hutchins Street, from Lodi Avenue to Tokay Street, is budgeted in this fiscal year. To accommodate the minor widening south of Lodi Avenue, it was necessary to acquire property from two parcels. Approximately one year ago, the right-of-entry agreements were signed by both property owners. The owners of the Milk Stop property at 321 South Hutchins Street have now signed the purchase agreement and the deed for this acquisition. Under the agreement, the property owners will be paid \$7,179 and the City will be responsible for the relocation of an existing sign and faucet.

IMPROVEMENTS FOR  
PARKVIEW TERRACE,  
LOCATED AT THE  
NORTHEAST CORNER  
OF LOWER SACRAMENTO  
ROAD AND LODI AVENUE  
ACCEPTED

RES. NO. 89-42

CC-46  
CC-300

The City Council adopted Resolution No. 89-42 accepting the subdivision improvements included in Parkview Terrace, Tract #2166, which map was filed on February 10, 1988, in Volume 28, Page 75, Book of Maps and Plats, San Joaquin County Records.

Improvements in Parkview Terrace have been completed in substantial conformance with the requirements of the Subdivision Agreement and Addendum between the City of Lodi and Charles A. Wentland & Associates dated January 26, 1988, and as specifically set forth in the plans and specifications approved by the City Council.

The streets to be accepted are as follows:

Continued April 19, 1989

<u>Streets</u>	<u>Length in Miles</u>
Lodi Avenue	0.00
Lower Sacramento Road	0.00
TOTAL NEW MILES OF CITY STREETS	0.00

Mayor John R. (Randy) Snider abstained from discussion and voting on this matter, because of a possible conflict of interest.

PROPOSED CLAIMS  
PROCEDURE FOR CITY  
OF LODI PROJECTS  
APPROVED

The City Council approved the proposed claims procedure for City of Lodi projects and directed that it be used in all specifications for City of Lodi projects.

CC-6  
CC-12(a)  
CC-12.1(c)

The Department of Transportation which administers the FAU funds has required local agencies to have their own contractors' claim procedure. The reason that Caltrans requires this is that if local agencies do not have a contractors' claim procedure, they would be required to follow the standard specifications of the Department of Transportation which allow all claims to go to arbitration.

The City's existing claims statement in the specifications is very brief and does not spell out the procedure for settlement of claims. This new policy does. The proposed claim procedure has been submitted to Caltrans and has been approved.

REPORT ON PAVING  
STONES IN DOWNTOWN  
AREA

The City Council was apprised that the Public Works Department is in the process of performing the final check of the downtown paving stones installed as part of the United Downtown Improvement District (UDID) project. The stones were installed in 1984 and the specifications included a requirement for a five-year warranty bond in the amount of \$42,000. The bond was provided by Reliance Insurance Company for the paving stone subcontractor, Mumbert Pipe Co. Inc., dba Specialty Paving System. The warranty, which will expire on August 10, 1989, states that: "...the installed paving stones will remain intact and free from settlement, breakage and uplifting". Neither the warranty nor the specifications included any specific limits on settlement.

CC-10(e)  
CC-13

In September 1985, the City notified the prime contractor, Claude C. Wood Company, that some concrete and paving work needed to be corrected and that some of the paving stones had settled; however, a decision as to what should be done with the paving stones was deferred.

In August 1986, Claude C. Wood Company was notified that work on the paving stones at a few locations needed to be done immediately and some should wait until late in the warranty period. This letter indicated an acceptable amount of settlement was 1/2". This was based on ride quality and some allowance for future settlement. As a point of reference, the City's sidewalk maintenance policy states that vertical offsets of less than 3/4" need not be patched. The work called for in the August 1986 letter was completed in late 1987.

City staff has recently examined all the paving stone installations. It was noted that, in most cases,

Continued April 19, 1989

settlements were not significantly higher than in 1986. The defects found are listed below and referenced on a key map presented for Council's perusal.

- A. Pine/Sacramento, west crosswalk - 1/2" to 1"+ settlement
- B. Pine/Sacramento, northeast corner - 1/2" settlement at curb near signal
- C. Pine/Church, north crosswalk - 1/2" settlement in wheel path
- D. Pine/Church inside fillet at 3 corners - 1/2" settlement
- E. East side of School, alley north of Elm - settlement is uniform but water valve riser is now above the stones
- F. Elm/School, east crosswalk - 1/2" to 5/8" settlement
- G. Elm/School, south crosswalk - minor settlement less than 1/2"
- H. East side of School, alley north of Pine - 1/2"+ settlement at curb & back of alley approach
- I. Pine/School, west crosswalk - two broken/chipped stones
- J. Pine/School, south crosswalk - 5/8" to 1" wheel path settlement
- K. Pine/School, northeast corner - 1/2"+ settlement
- L. Pine/School, east crosswalk - less than 1/2" wheel path settlement
- M. Oak/School - east, south & west crosswalks - 1/2" to 1" wheel path & general settlement
- N. Walnut/School, east & west crosswalks - 1/2" to 5/8" settlements, broken stone
- O. Walnut/School, southeast corner - raised/settled stones, some due to previous repair
- P. East side of School, alley north of Lodi - 3/4" to 1" settlement
- Q. Lodi/School, northeast corner - less than 1/2" settlement
- R. Lodi/School, northwest corner - 3/4" settlement at curb, 3/4" wheel path settlement

There are many minor defects which may present an appearance problem, but are not a safety or maintenance problem. Given the nature of paving stones and the chance that repairs may not appreciably improve the existing condition, it is recommended the number of repairs be minimized. Not all the defects listed will require repair. Other areas, such as the alley approach on the west side of School Street north of Elm, look very bad. However, the problem is due to the poor sidewalk, curb, and alley paving which was not replaced as part of the Downtown project due to cost considerations.

Continued April 19, 1989

All the defects listed will be evaluated as to degree of hazard, ride quality, and appearance. A list of recommended repairs will be developed and presented to the City Council in May 1989.

\* \* \* \* \*

COMMENTS BY CITY  
COUNCIL MEMBERS

The following comments were received under the "Comments by City Council Members" segment of the agenda:

UPDATE ON RECENT  
COMMUNITY SERVICES  
CONFERENCE

Council Member Olson gave a report on a recent League of California Cities Community Services Conference which she attended in Monterey.

REMINDER OF CITY-WIDE  
CLEAN-UP WEEK

Council Member Hinchman reminded the citizens of Lodi of the City-Wide Clean-Up Week April 24 to 28, 1989 and thanked Sanitary City Disposal Company, Inc. for the cards that were mailed reminding the public about Clean-up Week.

TRANSPORTATION  
PROVIDED TO AND  
FROM THE ASPARAGUS  
FESTIVAL BEING HELD  
IN STOCKTON

Mayor Snider announced that there would be transportation to and from the Asparagus Festival being held in Stockton April 22 to 23, 1989. The departure point is the Beckman Ranch Shopping Center.

LETTER RECEIVED  
FROM CONCERNED  
CITIZEN REGARDING  
DISTURBANCES IN THE  
VICINITY OF HUTCHINS  
STREET SQUARE

Mayor Snider announced that he had received a copy of a letter from a concerned citizen regarding a disturbance in the vicinity of Hutchins Street Square. The matter was referred to staff.

CC-16

PETER MELTON RESIGNS  
FROM LODI NEWS  
SENTINEL

City Manager Peterson announced the leaving of Peter Melton from the Lodi News Sentinel. Peter will be working for the Fresno Bee.

COMMENTS BY THE  
PUBLIC ON NON  
AGENDA ITEMS

The following comments were received under the "Comments by the public on non-agenda items" segment of the agenda:

CITIZENS POSES  
QUESTION REGARDING  
CITY'S STREET  
SWEEPING PROGRAM

Evelyn Thomas, 2535 Cottonwood Drive, Lodi, requested information regarding the City's street sweeping program. Public Works Director Ronsko responded to the question.

Continued April 19, 1989

PUBLIC HEARINGS

PUBLIC HEARING  
REGARDING WEED  
ABATEMENT PROCEEDINGS  
INVOLVING VARIOUS  
PARCELS WITHIN THE  
CITY OF LODI TO  
ALLOW PROPERTY OWNERS  
HAVING OBJECTIONS TO  
THE PROPOSED REMOVAL  
OF WEEDS TO BE HEARD  
AND GIVEN DUE  
CONSIDERATION

RES. NO. 89-43  
CC-24(b)  
CC-300

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Snider called for the Public Hearing to consider weed abatement proceedings involving various parcels within the City of Lodi to allow property owners having objections to the proposed removal of weeds to be heard and given due consideration.

The City Council was reminded that at its meeting of March 22, 1989 the City Council adopted Resolution No. 89-28 - Resolution Declaring Weeds A Public Nuisance and Initiating Abatement Proceedings - Various Parcels, Lodi, California. Pursuant to State of California Government Code Section 39500 et seq., a Notice to Destroy Weeds and Remove Rubbish, Refuse, and Dirt, was published, mailed under Declaration of Mailing to each of the involved property owners, and posted on the subject properties as determined by the City Attorney and the Fire Inspector. The purpose of this public hearing is for all property owners having any objections to the proposed abatement to be heard and given due consideration.

The City has been advised by the Fire Department that since the adoption of Resolution No. 89-28 numerous property owners have abated the weeds on their property. A list of property owners who had not abated their weeds was presented for the City Council's review.

There being no persons in the audience wishing to address the City Council on the matter, the public portion of the hearing was closed.

Following discussion, on motion of Mayor Pro Tempore Hinchman, Olson second, the City Council adopted Resolution No. 89-43 entitled "Resolution Overruling Objections and Proceeding with Abatement".

PLANNING COMMISSION  
REPORT

City Manager Peterson presented the following Planning Commission Report of the Planning Commission Meeting of April 3, 1989

CC-35

The Planning Commission -

OF INTEREST TO THE CITY COUNCIL

1. Conditionally approved the Tentative Subdivision Map (89 S 003) for a one lot office condominium at 1330 South Ham Lane as requested by Baumbach and Piazza Consulting Engineers on behalf of Harry Ilgenfritz; and certified the filing of a Negative Declaration by the Community Development Director as adequate environmental documentation on this project.

2. Conditionally approved a Lot Line Adjustment between 531 and 601 West Kettleman Lane in an area zoned R-C-P, Residential-Commercial-Professional and between 531 West Kettleman Lane and 522 Rimby Avenue in an area zoned R-2, Single-Family Residential as requested by Dillon Engineering on behalf of Tony Canton.
3. Conditionally approved the following request of the City of Lodi Electrical Utility Department:
  - a. extended the Temporary Use Permit for a mobile office at 1331 South Ham Lane (Municipal Service Center) so that the expiration date will coincide with that of Use Permit U-89-06, a second mobile office at the same site; and
  - b. conditionally approved the Temporary Use Permit for a second mobile office at 1331 South Ham Lane (Municipal Service Center).
4. Determined that a Zoning Hardship existed and approved the request of Peter and Barbara Krengel for a Zoning Variance to reduce the required rear yard from 10 feet to five feet to permit the addition of a garage, bedroom and bathroom at 514 West Locust Street in an area zoned R-1\*, Single-Family Residential (Eastside).
5. Determined that a Zoning Hardship existed and approved the request of E.A. Gooden for a Zoning Variance to reduce the required lot width for a duplex from 60 feet to 50 feet to permit the erection of a second unit at 437 Louie Avenue in an area zoned R-2, Single-Family Residential.
6. Determined that a Zoning Hardship existed and approved the request of Jose S. Pericao for a Zoning Variance to reduce the required rear yard from 10 feet to five feet to allow a laundry room addition to a dwelling with a non-conforming rear yard at 219 North Garfield Street in an area zoned R-1\*, Single-Family Residential (Eastside).

City Manager Peterson presented the following report of the Planning Commission Meeting of April 10, 1989:

The Planning Commission -

OF INTEREST TO THE CITY COUNCIL

1. Conditionally approved the request of Randall Heinitz for a parcel map to create three lots from two parcels at 60 and 70 North Lower Sacramento Road in an area zoned R-1, Residential Single-Family.
2. Conditionally approved the request of Glen I. Baumbach on behalf of Dr. Chris Keszler for a revised tentative subdivision map (second revision) for Sunwest Unit No. 9, a 3.7 acre 12-lot single-family subdivision located at the southeast corner of Lower Sacramento Road and St. Moritz Drive in an area zoned PD-25, Planned Development District No. 25.
3. Conditionally approved the request of Glen I Baumbach on behalf of Dr. Chris Keszler to approve a revised tentative subdivision map for Sunwest Unit No. 10, a 6.6 acre, 24-lot single-family subdivision located at the northeast corner of Lower Sacramento Road and St. Moritz Drive in an area zoned PD-25, Planned Development District No. 25.

Continued April 19, 1989

COMMUNICATIONS  
(CITY CLERK)ABC LICENSE  
APPLICATIONS

CC-7(f)

Deputy City Clerk Johnson presented the following applications which had been received for Alcoholic Beverage Licenses:

- a) Barry A. Jacobs, Jacobs Concessions, 333 North Washington Street, Lodi, On Sale Beer License, Original License
- b) Barry A. Jacobs, Jacobs Concessions, 401 North Stockton Street, Lodi, On Sale Beer License, Original License

## PUC APPLICATION

CC-7(f)

Deputy City Clerk Johnson presented the application of Intrastate Radio Telephone, Inc. of San Francisco for a Certificate of Public Convenience and Necessity pursuant to Section 1001 of the Public Utilities Code, to construct and operate additional radio telephone utility facilities.

## REGULAR CALENDAR

ORDINANCE REGULATING  
SIDEWALK PEDDLERS/  
VENDORS INTRODUCED

ORD. NO. 1454

CC-6  
CC-45(e)  
CC-149

The City Council was reminded that at the Shirtsleeve meeting of January 31, 1989, the Council initially considered the draft of a proposed ordinance addressing sidewalk/street vendors and peddlers. The proposed ordinance has three facets:

- 1) It prohibits the selling of any merchandise on a public street or sidewalk for longer than ten minutes at a single location. By requiring vendors to move, it avoids a specific location becoming "institutionalized" in the minds of passing motorists as a place to stop at the curb and do business.
- 2) It prohibits any street vendor from operating at any location where it will create a traffic hazard; and
- 3) It prohibits vending within three hundred feet of a school ground when school is in session, or within one hundred feet of any intersection controlled by a traffic light or four way stop sign.

At the Council's direction, the proposed ordinance was sent to the Lodi Downtown Business Association and the Lodi District Chamber of Commerce for review and input. The only response received was a suggestion by the Chamber that the time limit of 4:00 p.m. be deleted from proposed Section 9.20.030. the statute as modified would then prohibit sales by peddlers or vendors within "... three hundred feet of any school grounds ... on any day when school is in session ...". From a legal standpoint, I have no concerns with this modification.

The introduction of this ordinance will provide a tool for the Community Development Department, which has regularly experienced instances involving sales of merchandise from street corners, usually at traffic-controlled intersections.

On motion of Council Member Olson, Hinchman second, the City Council, by unanimous vote, introduced Ordinance No. 1454 entitled "An Ordinance of the Lodi City Council Amending the Lodi Municipal Code by Adding Thereto Chapter

Continued April 19, 1989

## 9.20 Regulating Peddlers', Vendors', or Itinerant Merchants' Activities on Public Streets and Sidewalks".

REPORT REGARDING  
WHEELCHAIR LIFT  
DIAL-A-RIDE EQUIPMENT  
FOR CITY OF LODI

RES. NO. 89-47      The City Council was advised that COG has determined the City of Lodi has an unmet transit need - a wheelchair equipped vehicle. Patrons using the Dial-A-Ride program are experiencing delays longer than should be necessary. This condition can partially be solved by adding additional vehicles. By purchasing a vehicle with a wheelchair lift both objectives can be achieved - the handicapped can be served and an additional vehicle can be added to the fleet.

CC-50(b)  
CC-300

The City can fund this vehicle using TDA funds; however, Staff must submit a revised claim. There will be unexpended budgeted funds for 1988-89, plus approximately \$40,000 of additional unanticipated funds which will be available at year's end. The revised claim is for \$40,000 of which \$5,305 is for the cost of vehicles purchased this year over what was budgeted. The remainder is to be used to purchase a wheelchair equipped van, a radio, and the necessary work to place the vehicle in service. Any unexpended funds will be available for Dial-A-Ride activities next year. Therefore, there is no downside in over appropriating funds.

City staff, City Cab Company staff and COG staff are working together to determine the most cost effective equipment available. Council is requested to authorize the Purchasing Agent to purchase a new or used vehicle with a wheelchair lift that will allow the City to meet its unmet transit need and to carry additional patrons.

On motion of Council Member Hinchman, Reid second, the City Council approved the revised claim for use of TDA funds to purchase additional equipment for the Dial-A-Ride program and authorize the Purchasing Agent to procure the most appropriate wheelchair equipped vehicle.

ADDITIONAL ENGINEERING  
POSITION REQUIRED IN  
CONJUNCTION WITH  
WATER SYSTEM UPGRADING  
APPROVED

RES. NO. 89-44      The City Council was advised that during 1988 the City Council and staff reviewed various water system improvements and financing methods. A determination was made that rather than borrow money, the City would adopt a somewhat scaled down improvement program and accomplish the work over a longer period of time and "pay as you go". Water rates were increased to provide the necessary funds. The planned work includes \$276,000 for elimination of dead end lines, meter installations, and lead service replacement, along with a service truck and tools. Two Maintenance Workers have been added to the Water Division to assist in accomplishing this work. It is planned that these positions will not be replaced in the future as other positions are vacated.

CC-34  
CC-300

Present plans from now through June 1990 include the following work requiring significant in-house engineering:

- . modification of seven wells due to age and drought conditions;

- . completion of three well projects already underway (Wells 4, 22 and 23);
- . construction of four new well sites;
- . installation of eight standby generators;
- . prioritizing and preliminary engineering for general water system improvements; and
- . construction of approximately \$133,000 of new water mains.

Future years will include construction of approximately \$3 million worth of new water mains and one additional well plus more wells to accommodate future growth. We have also found that more engineering support is needed in the operation and maintenance of the water system.

This is all engineering work the City has traditionally done in-house and, in fact, has developed considerable expertise. We can accomplish this work in-house, however, the time commitment will mean that practically no work would be done on the street, storm, sewer, and parks capital improvement programs. The additional engineer will handle much of this work and allow cross-training and more workload flexibility. The cost of the new position will be mainly absorbed by the various Capital Improvement Funds. The newly adopted water rates anticipated the necessary engineering work and will support this program.

The City must fill this position with someone who has some design experience. It is recommended that this position be filled at the level of Assistant or Associate Civil Engineer. Based on a \$4 million water system improvement program, there is approximately five years of engineering to be accomplished.

Therefore, it was recommended that an additional engineer position be approved on the same basis as the maintenance positions - that after the water system upgrade program is completed, the position will be lost through attrition or, if appropriate, brought back to the Council for reapproval.

Discussion followed with questions being directed to staff regarding the matter.

On motion of Council Member Hinchman, Reid second, Council adopted Resolution No. 89-44 approving an additional engineer position in conjunction with the water system upgrading with an addendum that the position be terminated not later than June 30, 1996. The motion carried by the following vote:

- Ayes: Council Members - Hinchman, Olson, Reid and Snider (Mayor)
- Noes: Council Members - Pinkerton
- Absent: Council Members - None

RESOLUTION ADOPTED  
REGARDING "NO SMOKING"  
IN CARNEGIE FORUM

RES. NO. 89-45 The City Council was advised that the existing City Council Chambers have for several years been designated as a "No

Continued April 19, 1989

CC-6 Smoking" area. In fact, cigarette smoking in City Hall is,  
 CC-14(a) almost without exception, done only in the second floor  
 CC-28(b) lobby area and a portion of the employee lounge in the  
 CC-300 basement. If the City Council is in agreement that this  
 new facility (the Carnegie Forum) should be so designated,  
 staff would appreciate that decision now so that ample time  
 may be allotted to the ordering, delivery and placement of  
 the appropriate signs. At this time, it is estimated the  
 building will be ready for occupancy in late June. We have  
 had requests from employees working in City Hall to  
 implement a policy which addresses smoking in the City Hall  
 building. At this time we do not have a response to those  
 requests, but it is being discussed at the department head  
 level. We will ultimately be bringing to the City Council  
 either a resolution or an ordinance which will address the  
 issue of smoking in all City-owned facilities. It is not  
 the intent to include park buildings and the public areas  
 at Hutchins Street Square since these facilities have been  
 designed and built primarily for public use. Rather, the  
 intent is to achieve a relatively smoke-free work place for  
 City employees and to not apply this policy to the public  
 at large except when they are in such work places.

Following discussion on motion of Mayor Pro Tempore  
 Hinchman, Reid second, the City Council by the following  
 vote adopted Resolution No. 89-45 entitled "A Resolution of  
 the Lodi City Council Declaring the Carnegie Forum Building  
 to be a Smoke-free Facility".

Ayes: Council Members - Hinchman, Olson, Reid and  
 Snider (Mayor)

Noes: Council Members - Pinkerton

Absent: Council Members - None

RECESS Mayor Snider declared a five-minute recess and the City  
 Council reconvened at approximately 8:40 p.m.

AUTHORIZE PURCHASE  
 OF SCENIC OVERLOOK  
 SITE

RES. NO. 89-46 The City Council was advised that in 1982, a decision was  
 made by the City Council to dispose of a parcel of surplus  
 City property, generally located on the south bank of the  
 Mokelumne River east of the Southern Pacific Railroad  
 tracks and at the north end of Awani Drive. The site,  
 commonly referred to as the "Scenic Overlook" parcel had  
 been previously used since 1935 as a City landfill.

CC-24(b) The public notice and request for bids clearly identified  
 CC-27(a) the site as a former landfill and disclaimed any "...  
 CC-300 guarantee as to the soil conditions which may limit the  
 feasibility of building on the property, as the areas (sic)  
 has been used as City landfill for many years ..." It was  
 assumed that the primary problem (as with other landfill  
 sites) would be methane gas generated by the buried waste  
 material.

The successful bidder for the land was Arnaiz Development  
 Company of Stockton which purchased the site in late 1982  
 and began preparation for development as residential  
 property. In 1988, the property (still undeveloped) was  
 sold by Arnaiz to Pintail Development/Dannor Corporation of  
 Stockton which continued to move forward with plans for  
 residential development. A tentative map was approved in  
 late 1988, subject to a Planning Commission condition that  
 a Solid Waste Assessment Test (SWAT) be conducted and

Continued April 19, 1989

approval received from involved State and County agencies, including the Regional Water Quality Control Board and appropriate health agencies.

Unfortunately, elevated levels of lead and other heavy metals were found onsite by the soils engineering firm retained by the developer. This fact was disclosed to the Regional Water Quality Board staff, which then notified the State Department of Health Services. Neither agency will now approve the site for development, effectively halting any plans until the site is cleaned up or declared safe. You may recall that the Department of Health Services recently declared that due to budget restrictions, it had insufficient staff to conduct even routine activities such as answering telephones or responding to mail. These agencies have not told us what they would approve, but have simply affirmed that they will give no approval until something is done which meets with their approval.

Just prior to the City's sale of the land, the Federal government adopted the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 USC Section 9601 et seq. Although the disclaimer in the City's request for bids might otherwise have transferred the risk and responsibility for cleanup to the buyer, CERCLA in essence makes responsibility for cleanup of hazardous or toxic substances the responsibility of the party who placed it on the land, whether or not that party still owns the land (42 USC Section 9607(a)). According to research, recent court decisions have interpreted CERCLA in such a fashion that even some hold harmless agreements have not been effective to shield prior owners from liability. This responsibility for cleanup has been applied to municipalities which own or previously owned the site involved (New York v. City of Oyster Bay 696 F.Supp. 841). It was not foreseeable at the time of sale that CERCLA would be applied and interpreted in the fashion it has over the intervening seven years, and in hindsight, the City would have been better off retaining the land.

The problem which now exists is that the developer cannot get approval from all necessary agencies to proceed with construction although it has already expended substantial sums of money. Pintail has pointed out that it may be forced by financial considerations to bring suit against the City to compel cleanup of the site, utilizing CERCLA and other State statutes such as the Porter-Cologne Act.

While I do not speculate on the owner's chances of success in such litigation, if it did succeed, the City could be responsible not only for the cleanup costs, but possibly for inverse condemnation damages for loss of use of the property, until it is declared safe for development. The estimated costs of cleanup (which at present are very speculative) range from about \$1.5 million for in place treatment, to more than \$24 million for hauling away all of the soil presently on the landfill, and replacing it with clean soil. Even if the cleanup was done immediately, the property would still belong to Pintail, which would then be free to continue with development plans, and the City would simply be out its costs with nothing else to show for it.

After extensive study and discussion among staff, the most practical option appears to be a repurchase agreement to which the present owner has indicated it is amenable. Pintail has indicated it is willing to sell the property back for the amount of out-of-pocket costs it has already invested, with no profit or markup included. Documentation has been provided showing more than \$392,000 expended to

date. Pintail has agreed to accept that amount for the property, plus the interest which accrues at over \$100 per day, up to date of closing. It is estimated the total will be approximately \$395,000.

It must be stressed that I do not speculate on Pintail's chance of success in litigation, but believe this to be the most economically practical solution in the long run. The City need not and should not stipulate that the site is contaminated to the extent that there is a danger to the public, nor that it requires immediate cleanup. Tests have not shown that to be the case. However, there are some elevated levels of lead on site. A repurchase would allow the City time to make an in-depth assessment of the situation and to plan an appropriate response without the threat of a lawsuit.

Simply defending the litigation and conducting the tests necessary to prepare the case would cost nearly as much as the repurchase. It should also be remembered that at some point, the site will have to be cleaned up or neutralized and there are no guarantees that a state or federal agency may not decide unexpectedly to require this. However, the possibility of that happening in the immediate future appears unlikely if there is no third party bringing suit to force the issue.

Because of the complexity of the environmental law issues involved, and to get another objective point of view, I consulted with Joseph Armao of San Francisco, an attorney specializing in environmental law. Mr. Armao concurred that of the options which we apparently have, repurchase appears the most practical based on potential liability for costs and also considering that following cleanup, the City will again have a desirable piece of property for which an appropriate use may be found.

The present owner has requested a prompt decision by the Council because interest and carrying charges continue to accrue.

The following persons were in the audience and addressed the City Council regarding the matter:

1. Pat Velasquez  
1061 Awani Drive  
Lodi  
President of the Mokelumne Village Condominium Association
2. Dick Rippey  
317 Mokelumne River Drive  
Lodi  
President of the Park Association
3. Charles Duncan  
1214 West Lodi Avenue  
Lodi
4. Jean Davenport  
23324 North Dustin Road  
Acampo

Following discussion, the City Council on motion of Council Member Reid, Hinchman second, adopted Resolution No. 89-46 entitled "A Resolution of the Lodi City Council Authorizing the Purchase by the City of Lodi of Real Property Located on the South Bank of the Mokelumne River" and appropriated \$400,000 from the Capital Outlay Reserve for this purchase.

Staff was directed to report back to the City Council with recommended security measures for the area.

CONSIDER PROPOSAL  
OF JIM LEVINE  
DESIGN ASSOCIATES  
FOR A HANDPAINTED  
MURAL TO BE LOCATED  
WITHIN THE CARNEGIE  
FORUM BUILDING

CC-6  
CC-97

The City Council was advised that at the "Shirtsleeve" session of March 28, 1989, the City Council heard a presentation by Mr. Jim Levine for the painting of a mural in the Carnegie Forum. A copy of this proposal is set forth below. The matter was merely received at that time since the City Council cannot take action at these work-study meetings. Mr. Levine has requested a decision.

"I agree to act as consultant to the City of Lodi for the planning and execution of one handpainted mural to be located within the Carnegie Forum building. Said mural will depict the past, present, and future of the City of Lodi.

I propose to raise the necessary funds by approaching businesses, individuals, and organizations within the city for contributions and support.

I suggest that designs for the mural be submitted by local artists within a given period of time, and that selection of the design to be used be made by the City Council with the advice of Jim Levine Design Associates.

Monies realized through fund-raising endeavors will go to meet the expenses of completing the mural, including a twenty percent (20%) fee to Jim Levine Design Associates for consulting services.

It is to be hoped that this will be the first of a number of important public art projects associated with the City of Lodi."

While it is desirable that there be art displayed in this new facility, the City Council may wish to consider an alternate approach that may more involve the community.

Following discussion on motion of Mayor Pro Tempore Hinchman, Olson second, the City Council by the following vote voted not to accept Mr. Levine's proposal.

Ayes: Council Members - Hinchman, Olson and Snider (Mayor)

Noes: Council Members - Pinkerton and Reid

Absent: Council Members - None

Further, on motion of Council Member Reid, Pinkerton second, the City Council, by unanimous vote voted to establish a committee of representatives of various art groups, the City Council and the architect, to study other proposals for bringing art to the Carnegie Forum.

Continued April 19, 1989

ORDINANCES

LAND USE ELEMENT  
OF GENERAL PLAN  
AMENDED - WEST VINE  
STREET BETWEEN  
INTERLAKEN DRIVE  
AND LOWER SACRAMENTO  
ROAD

ORD. NO. 1451  
INTRODUCED

CC-35  
CC-53(a)  
CC-149

Ordinance No. 1451 entitled, "An Ordinance of the Lodi City Council Amending the Land Use Element of the Lodi General Plan by Redesignating West Vine Street Between Interlaken Drive and Lower Sacramento Road" having been introduced at a regular meeting of the Lodi City Council held April 5, 1989 was brought up for passage on motion of Council Member Reid, Hinchman second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

- Ayes: Council Members - Hinchman, Olson, Pinkerton, Reid and Snider (Mayor)
- Noes: Council Members - None
- Absent: Council Members - None

REZONING - WEST VINE  
STREET BETWEEN  
INTERLAKEN DRIVE  
AND LOWER SACRAMENTO  
ROAD

ORD. NO. 1452  
INTRODUCED

CC-35  
CC-53(c)  
CC-149

Ordinance No. 1452 entitled "An Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Rezoning West Vine Street Between Interlaken Drive and Lower Sacramento Road" having been introduced at a regular meeting of the Lodi City Council held April 5, 1989 was brought up for passage on motion of Council Member Hinchman, Reid second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

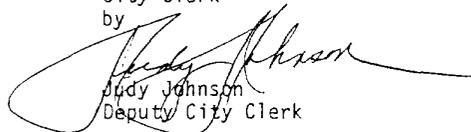
- Ayes: Council Members - Hinchman, Olson, Pinkerton, Reid and Snider (Mayor)
- Noes: Council Members - None
- Absent: Council Members - None

ADJOURNMENT

There being no further business to come before the City Council, Mayor Snider adjourned the meeting at 9:20 p.m. to Tuesday, April 25, 1989, 7:30 p.m., Fine Arts Building, Hutchins Street Square, 125 South Hutchins Street, Lodi, Joint Meeting of the Lodi City Council and the Lodi Unified School District Board of Trustees.

Attest:

Alice M. Reimche  
City Clerk  
by

  
Judy Johnson  
Deputy City Clerk