

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 17, 1999
7:00 P.M.**

1. ROLL CALL

Present: Council Members – Hitchcock, Mann, Nakanishi, Pennino and Land (Mayor)

Absent: Council Members - None

Also Present: City Manager Flynn, Deputy City Manager Keeter, Public Works Director Prima, Community Development Director Bartlam, City Attorney Hays and City Clerk Reimche

2. INVOCATION

The invocation was given by Natalie Reyes, member of the Bahai.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Land.

4. AWARDS / PROCLAMATIONS / PRESENTATIONS

- a) Mayor Land presented a proclamation honoring Lenore Sypnieski as Green Thumb's Outstanding Worker in San Joaquin County.
- b) Julia Rough with the Greater Lodi Area Youth Commission acknowledged the Teen of the Month, Mena Khan from Lodi High School, and the Honorary Teen of the Month, Tyler Seibert from Bear Creek High School.
- c) Mayor Land presented Christopher and Denise Ellsworth, Owner-occupants of the single-family residence located at 322 North Pleasant Avenue, with the Community Improvement Award for March 1999.
- d) Mayor Land and Rob Lechner, Chairman of the Year 2000 Steering Committee, introduced the winners of the Year 2000 Steering Committee Place Mat Contest – Track C. Jamee Yang, 3rd Grader from Parklane School, and Nick Baillie, 4th Grader from Reese School, each received a Certificate of Recognition and a gift certificate from Barnes & Nobel in the amount of \$50.

5. CONSENT CALENDAR

In accordance with report and recommendation of the City Manager, Council, on motion of Council Member Hitchcock, Pennino second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- a) Claims were approved in the amount of \$2,376,220.06.
- b) The minutes of March 3, 1999 (Regular Meeting) were approved as written.
- c) Approved the plans and specifications for Softball Complex Bleacher Project and authorized advertisement for bids.
- d) Approved the plans and specifications for Walkway Improvements to Glaves, Beckman and Lodi Lake Parks and authorized advertisement for bids.

Continued March 17, 1999

- e) Approved the plans and specifications for Century Park Playground Improvements and authorized advertisement for bids.
 - f) Accepted the improvements under the "Lower Sacramento Road Resurfacing, Turner Road to 400 Feet North of Eilers Lane" contract and directed the City Engineer to file a Notice of Completion with the County Recorder's office.
 - g) Adopted Resolution No. 99-42 approving the installation of no-parking zones on both sides of Evergreen Drive south of Turner Road to accommodate Class II bike lanes and appropriated the necessary funding.
 - h) Adopted Resolution No. 99-43 approving the renewal of the existing landscape maintenance contract for the 1999/2000 fiscal year to Odyssey Landscape Company, Inc., of Stockton, subject to final approval of the budget.
 - i) Authorized the City Manager to execute an amendment to the East San Joaquin Parties Water Authority (ESJPWA) Joint Powers Agreement.
 - j) Authorized the City Manager to sign a professional services agreement for general civil engineering support services with Harris & Associates that would allow this firm to perform civil engineering duties for the City on an as-needed basis.
 - k) Adopted Resolution No. 99-44 authorizing the Community Development Director to submit the Waste Tire Facility Enforcement Grant Application to State Integrated Waste Management Board.
 - l) Adopted Resolution No. 99-45 supporting the development of legislation to limit waste diversion requirements to Class III type waste.
 - m) Took the following actions with regard to Public Benefits Program Grants (totaling \$9,335.00) for energy efficiency and demand-side management projects:
 - Adopted Resolution No. 99-46 entitled, "A Resolution Of The Lodi City Council Authorizing The City Manager To Provide A Public Benefits Charge (PBC) Grant To Hazel's Restaurant"; and
 - Adopted Resolution No. 99-47 entitled, "A Resolution Of The Lodi City Council Authorizing The City Manager To Provide Public Benefits Charge (PBC) Grant To City Of Lodi Parks And Recreation".
- (Council Member Mann abstained from discussion and voting on this matter.)**
- n) Agenda item #E-14 entitled, "Set Public Hearing for April 21, 1999 to consider introducing an ordinance to add Lodi Municipal Code Chapter 10.43, 'Regulations for Roller Skating' and amend Chapters 10.40, 'Regulations for Bicycles' and 10.42, 'Skateboards'" was removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.
 - o) Agenda item #E-15 entitled, "Set Public Hearing for April 7, 1999 to consider the Planning Commission's recommendation that the City Council adopt a General Plan Land Use Amendment from MDR, Medium Density Residential to LDR, Low Density Residential at 2630 Paradise Drive, Lodi" was removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.
 - p) Agenda item #E-16 entitled, "Request to set hearing under the comprehensive Municipal Environmental Response and Liability Ordinance (MERLO) at the request of Joseph Salazar, Attorney for M&P Investments" was removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.

Continued March 17, 1999

- q) Approved a temporary credit card increase to \$20,000 for City Clerk to expire on March 31, 1999.
 - r) Agenda item #E-18 entitled, "Recommendation to participate in Joint Countywide Feasibility Study to explore options of County Animal Shelters" was pulled from the agenda pursuant to staff request.
 - s) Authorized the City to join the amicus brief in the case of *Foster v. City of Napa*, First District Court of Appeal No. A084652.
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6. ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- a) Agenda item #E-14 entitled, "Set Public Hearing for April 21, 1999 to consider introducing an ordinance to add Lodi Municipal Code Chapter 10.43, 'Regulations for Roller Skating' and amend Chapters 10.40, 'Regulations for Bicycles' and 10.42, 'Skateboards'".

Public Works Director Prima prepared the following report.

The Vice President of the Downtown Lodi Business Partnership requested that skateboards, bicycles, and rollerblading (roller skating) be prohibited on sidewalks in the downtown area due to safety concerns. While the City can administratively regulate the use of skateboards and bicycles under LMC Subsection 10.40.026, there are no regulations for roller skating. The purpose for this is to present an ordinance for discussion which would regulate roller skating, and also make minor changes and additions necessary to provide uniformity related to the signing and posting of this and similar restrictions.

1. Regulations for Roller Skating

California Vehicle Code Section 21969 allows local authority to adopt rules and regulations by ordinance to regulate the use of roller skates on sidewalks as well as roadways. Based on this, a new LMC Chapter 10.43 was drafted to regulate roller skating both in the public right-of-way and other posted properties, very similar to the existing skateboard regulations. The definition of roller skates would include in-line skates, commonly called "rollerblades." This would allow the City to administratively post sidewalks to prohibit skating and property owners to do so on site as well.

2. Skateboards

Per LMC Chapter 10.42, the minimum sign size required to prohibit skateboarding is 18"x18". This sign was selected because it was needed to accommodate the cartoon depiction of a skateboarder that was first used to designate this restriction. However, some businesses felt the cartoon character was not appropriate, so, in those cases, word signs were used. There is no other significance to the sign size, and reducing the size to a minimum of 12" wide by 18" high would not affect the ability to post the larger signs. The reduced sign size will be the same as standard "No Parking" and "Time Limit Parking" signs, so signs can be mounted back to back, if needed.

3. Regulations for Bicycles

The final issue is the standardization of posting method and sign type for the restriction of skateboards, bicycles and roller skates. At this time, the LMC specifies sign wording, size, and posting method for skateboards but not for bicycles. In order to provide consistency, the sign wording, size, and posting method would be added to the regulations.

Continued March 17, 1999

Although staff has concerns about discouraging people to go Downtown, based on the safety concerns expressed by the Downtown Lodi Business Partnership, staff recommended that Council set a Public Hearing to publicly review this issue.

Council Member Hitchcock indicated that she had removed this item in order to explain that the Council's action this evening was to set this matter for a Public Hearing. The time and place for discussion and comments would be at the April 21, 1999 City Council meeting.

The City Council, on motion of Council Member Hitchcock, Land second, unanimously set a Public Hearing for April 21, 1999 to consider introducing an ordinance to add Lodi Municipal Code Chapter 10.43, "Regulations for Roller Skating" and amend Chapters 10.40, "Regulations for Bicycles" and 10.42, "Skateboards".

- b) Agenda item #E-15 entitled, "Set Public Hearing for April 7, 1999 to consider the Planning Commission's recommendation that the City Council adopt a General Plan Land Use Amendment from MDR, Medium Density Residential to LDR, Low Density Residential at 2630 Paradise Drive, Lodi".

Mayor Land posed questions regarding the proposed density change in light of the City Council's recent past action in a related matter. Community Development Director responded and answered additional questions as were posed by the City Council.

The City Council, on motion of Mayor Land, Hitchcock second, unanimously set public hearing for April 7, 1999 to consider the Planning Commission's recommendation that the City Council adopt a General Plan Land Use Amendment from MDR, Medium Density Residential to LDR, Low Density Residential at 2630 Paradise Drive, Lodi.

- c) Agenda item #E-16 entitled, "Request to set hearing under the comprehensive Municipal Environmental Response and Liability Ordinance (MERLO) at the request of Joseph Salazar, Attorney for M&P Investments"

City Attorney Hays reminded the City Council that the City, under the terms of its Comprehensive Municipal Environmental Response & Liability Ordinance, has been pursuing an Administrative Action against M&P Investments, the owners of the property where the Busy Bee Cleaners were located. This particular administrative action has been going on for several months.

Just recently the Hearing Officer in the matter, Attorney John Reece of Stockton issued a ruling that was favorable to the City. Counsel for M&P Investments, Joe Salazar, has timely filed pursuant to §8.24.060 (B) (5) an objection to the Hearing Officer's Order. This filing on behalf of M&P Investments requires that a hearing be held before the City Council in order to review the Hearing Officer's Order.

Under the procedures established in our ordinance, it is necessary that the hearing be set far enough in advance that the requesting party can be provided at least twenty-one (21) days notice of the hearing date. Additionally, since it is expected that the hearing will take approximately one hour, it is believed by staff to be appropriate to suggest that the hearing being held at a time other than a regular Council meeting.

City Attorney Hays removed this item in order to inform the City Council that the time for this hearing needs to be scheduled to 6:00 p.m. rather than 5:30 p.m. as originally requested. City Attorney Hays responded to questions as were posed by the Council.

The City Council, on motion of Council Member Pennino, Hitchcock second, unanimously set hearing for April 14, 1999 at 6:00 p.m. under the comprehensive Municipal Environmental Response and Liability Ordinance (MERLO) at request of Joseph Salazar, Attorney for M&P Investments.

7. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Land called for the Public Hearing to consider amending the ordinance relating to police alarm fees.

ACTION:

The City Council, on motion of Council Member Hitchcock, Mann second, unanimously continued the Public Hearing to April 7, 1999 to consider the ordinance relating to police alarm fees.

8. COMMUNICATIONS (CITY CLERK)

- a) City Clerk Reimche read the following ABC Licenses:
1. C.R. Star Inc. to Joel Leobardo Garza, Star Market, 741 South Cherokee Lane, Lodi, Off-Sale General, Person to Person Transfer
- b) The following report was presented to the City Council:
1. Planning Commission report of February 24, 1999

9. REGULAR CALENDAR

None.

10. ORDINANCES

None.

11. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- a) Eileen St. Yves, 310 South Orange Avenue, Lodi, spoke regarding an incident that occurred approximately 7 months ago where she alleges that two inexperienced police officers gained entrance into her apartment in an illegal manner. She wondered who was responsible for this and indicated that she feels the Police Chief needs to accept responsibility for what is going on in his department.

City Manager Flynn stated that this has been a topic of discussion for several months and that he had sent a personal letter of apology to her regarding the matter. He further indicated that this matter is now under formal investigation; therefore, it would not be appropriate to respond to Ms. St. Yves at this time. Ms. St. Yves commented that she was pleased to know that the investigation was underway.

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

- a) Council Members Pennino and Hitchcock and Mayor Land spoke about the recent National League of Cities Congressional Congress they attended in Washington D.C. and the various topics of major concern that were discussed, which included:
- Loss of revenue to cities because of Internet sales. It was requested that staff monitor this and provide the City Council with a report of its findings.
 - The push to have City employees pay Social Security and the resulting drain this would have on the City's resources.
 - The Year 2000 Census and whether or not cities should have involvement or post census review.

Continued March 17, 1999

Council Member Hitchcock stated that she really appreciated the experience and that she came away with a real sense that Federal officials want to hear from local elected officials.

Mayor Land reported on meeting with Congressman Pombo in Washington D.C. regarding TEA21 and seeking assistance with the funding for the parking structure on Sacramento Street and the purchase of three C&G buses. Mayor Land indicated that it appears Congressman Pombo will be assisting the City in this matter.

- b) Following a request by Mayor Land as to the feasibility of establishing a Skate Park in Lodi, the City Manager responded that this will be matter of discussion for the April 20, 1999 Shirtsleeve Session.

Mayor Land announced that the Lodi Grape Festival Spring Wine Show will be held March 26th and 27th and urged all citizens to attend.

The Mayor announced that he has asked the City of Lodi Year 2000 Steering Committee to assist the City of Lodi during the Year 2000 Census process.

- c) City Manager Flynn stated that he has been working with COG and Community Development Director Bartlam on the Year 2000 Census and that this will be one of the topics of discussion at the March 23, 1999 Shirtsleeve Session.

City Manager Flynn stated that sales tax has been closely watched and Council will be apprised of any anticipated loss of sales tax revenues because of Web Page sales.

City Manager Flynn indicated that the City had received some very nice compliments regarding Public Works employees performing their duties in the community.

City Manager Flynn extended happy birthday wishes to Council Members Nakanishi and Pennino and to Deputy City Manager Keeter.

- d) Council Member Nakanishi stated that he has been on the City Council now for four months and he has come to realize what a good staff the City of Lodi has. He invited constituents to call him if they have any questions.

13. CLOSED SESSION

Mayor Land adjourned the City Council meeting to a Closed Session to discuss the following matters:

- a) Actual litigation: Government Code §54956.9(a). One case. Fireman's Fund Insurance Company v. City of Lodi, et al., United States District Court, Eastern District of California Case No. CIV-S-98-1489 LKK PAN
- b) Prospective acquisition/exchange of real property located at 1430 and 1460 East Lodi Avenue (APN #'s 049-07-007 and 049-07-008) and 1528 East Lodi Avenue (APN # 049-07-009), the negotiating parties are City of Lodi and George A. Gillespie et al. Negotiators to discuss terms of exchanging property. Government Code §54956.8.

14. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

The City Council meeting reconvened at approximately 11:45 p.m., and Mayor Land disclosed the following actions:

In regards to item a) there was no final action taken, however, in regards to item b) the City Council provided direction for staff to proceed with the negotiations.

Continued March 17, 1999

15. ADJOURNMENT

There being no further business to come before the City Council, Mayor Land adjourned the meeting at approximately 11:45 p.m.

ATTEST:

Alice M. Reimche
City Clerk