

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, DECEMBER 19, 2001**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of December 19, 2001 was called to order by Mayor Pennino at 5:52 p.m.

Present: Council Members – Hitchcock (arrived at 5:53 p.m.), Howard, Land, Nakanishi, and Mayor Pennino

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Prospective lease of City property – commercial/retail space located at 2 North Sacramento Street, situate in the Downtown Parking Structure; discussion of price and terms of the prospective leases; Government Code §54956.8 (CD)
- b) Prospective acquisition of real property located at 1575 East Victor Road, Lodi, CA (APN 049-040-07); the negotiating parties are City of Lodi and Al Thomas; Government Code §54956.8. (PW)
- c) Prospective acquisition of real property located at 541 East Locust Street, Lodi, CA (APN 043-202-14); the negotiating parties are City of Lodi and Pete and Helen Perlegos; Government Code §54956.8 (CA)
- d) Prospective acquisition of real property located at 1767 East Harney Lane, Lodi, CA, for parkland (APN 058-210-02); the negotiating parties are City of Lodi and Delmar Batch; Government Code §54956.8. (PR)

C-3 ADJOURN TO CLOSED SESSION

At 5:52 p.m., Mayor Pennino adjourned the meeting to Closed Session to discuss the above matters.

The Closed Session adjourned at 6:50 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:00 p.m., Mayor Pennino reconvened the City Council meeting, and City Attorney Hays disclosed the following actions:

In regard to Item C-2 (a), the City Council directed staff to open negotiations with Atlas Properties for master leasing of commercial spaces in the new parking structure at 2 N. Sacramento Street.

In regard to Item C-2 (b), the City Council directed staff to open negotiations with Al Thomas for a portion of property located at 1575 E. Victor Road.

In regard to Item C-2 (c), the City Council directed staff to continue negotiations with property owners of 541 E. Locust Street.

In regard to Item C-2 (d), the City Council declined to consider purchase of the listed property at this time (1767 E. Harney Lane).

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of December 19, 2001 was called to order by Mayor Pennino at 7:00 p.m.

Present: Council Members – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. INVOCATION

The invocation was given by Natalie Reyes, representative of the Baha'i.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Pennino.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Courtney Cook, member of the Greater Lodi Area Youth Commission, presented the Teen of the Month award to Daniel Brown from Tokay High School.

E. CONSENT CALENDAR

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

E-1 Claims were approved in the amount of \$3,419,154.90.

E-2 The minutes of October 30, 2001 (Shirtsleeve Session), October 30, 2001 (Special Meeting), November 20, 2001 (Shirtsleeve Session), November 20, 2001 (Special Meeting), November 29, 2001 (Special Meeting), December 5, 2001 (Regular Meeting), December 11, 2001 (Shirtsleeve Session), and December 11, 2001 (Special Meeting) were approved as written.

E-3 Adopted Resolution No. 2001-284 authorizing the purchase of two compressed natural gas heavy-duty trucks for the Parks and Water/Wastewater divisions from Delta Truck Center, of Stockton, in the amount of \$176,136.50 (includes delivery charges, but not California sales tax); and appropriated funds for the purchase in accordance with staff recommendation.

E-4 Adopted Resolution No. 2001-285 authorizing the purchase of 75 "Lodi Replica" concrete street light standards from the sole supplier, NCS Company, of Auburn, California, representing Traditional Concrete, Inc., in the amount of \$85,537.50.

E-5 Adopted Resolution No. 2001-286 awarding the bid for the purchase of 20,000 feet of #2/0 15kV XLPE concentric neutral primary underground conductor to the low bidder, Western States Electric Company, of Portland, OR, in the amount of \$20,941.

E-6 Adopted Resolution No. 2001-287 awarding the bid for the purchase of 20,000 feet of #350kcmil 600-volt XLPE underground triplex cable to the low bidder, Nexans Energy USA, of Warrenton, VA, in the amount of \$31,199.51.

E-7 Adopted Resolution No. 2001-288 awarding the bid for the purchase of ten three-phase padmount transformers to the bidders whose proposals and equipment met the City's specifications, and whose transformers are expected to yield the lowest overall life-cycle costs:

Western States Electric, Portland, OR	2 ea. 75kVA	208Y/120V	\$ 6,235.00
	2 ea. 112.4kVA	480Y/277V	\$ 7,181.00
	3 ea. 150kVA	480Y/277V	<u>\$11,903.48</u>
			\$25,337.48
Howard Industries, Laurel, MS	3 ea. 225kVA	480Y/277V	<u>\$16,641.00</u>
			\$41,960.48

- E-8 Adopted Resolution No. 2001-289 awarding the bid for the purchase of 23 single-phase conventional polemount transformers to the bidders whose proposals and equipment met City of Lodi specifications, and whose transformers are expected to yield the lowest overall life-cycle costs:

ERMCO, Dyersburg, TN	5 ea. 25kVA 120/240V Conv.	\$ 2,811.13
Western States Electric, Portland, OR	8 ea. 37.5kVA 120/240V Conv.	\$ 4,781.60
Central Moloney, Pine Bluff, AR	10 ea. 50kVA 120/240V Conv.	<u>\$ 7,826.00</u>
		\$15,418.73

- E-9 Adopted Resolution No. 2001-290 awarding the bid for the purchase of eleven Holophane *Prismasphere*® globe-style luminaires to the low bidder, Wille Electric Company, of Stockton, in the amount of \$6,243.60.

- E-10 “Adopt resolution awarding contract for Landscape and Irrigation Installation on the South Hutchins Street Median to Odyssey Landscape Company, of Stockton (\$184,040); and appropriate funds for the project” was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**

- E-11 “Adopt resolution authorizing the City Manager to execute a professional services agreement with Mark Thomas & Company, Inc., for the preliminary design services associated with the Lodi Avenue Agreements for the project; and appropriate \$240,000 for the project” was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**

- E-12 Adopted Resolution No. 2001-291 approving a Public Benefits Program Grant and authorizing the City Manager to enter into a two-year contractual agreement with Enercom/Hometown Connections to provide software for the new Lodi Energy Audit Program in the amount of \$23,200.

- E-13 Adopted Resolution No. 2001-292 authorizing the City Manager to provide funding in the amount of \$6,135 to fund the Public Benefits Program Grant for the 631 East Oak Street Building/Employment Development Department Demand-side Management Project.

- E-14 Adopted Resolution No. 2001-293 authorizing the City Manager to appropriate Public Benefits Program funds to extend the Lodi Small Business Energy Services Partnership in the amount of \$25,000.

- E-15 Adopted Resolution No. 2001-294 authorizing the City Manager to provide funding in the amount of \$10,660 to fund the Public Benefits Program Grant – Century Assembly Church Demand-side Management Project.

- E-16 Adopted Resolution No. 2001-295 authorizing the City Manager to appropriate \$27,041.80 from the City of Lodi Public Benefits Program fund for a Demand-side Management Project at Scientific Specialties, Inc.

- E-17 Adopted Resolution No. 2001-296 approving the fee schedule for certain services provided by the City Clerk’s Office.

- E-18 Request to join in amicus brief in the case of *Bonanno v. Central Contra Costa Transit Authority*, Supreme Court.

- E-19 Set public hearing for January 2, 2002 to consider unmet transit needs in Lodi.

- E-20 Set public hearing for January 2, 2002 to consider the Planning Commission’s recommendation that the City Council adopt the Growth Management Allocations.

- E-21 Set public hearing for January 2, 2002 to consider the Planning Commission’s recommendation of approval to the City Council to amend the General Plan designation from ER, Eastside Residential to O, Office, and a change in zoning designation from RE-1, Single-Family Residential Eastside to RCP, Residential Commercial Professional for properties located at 314 and 322 West Locust Street.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. PUBLIC HEARINGS

G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the Public Hearing to consider a resolution confirming the 2001/2002 Annual Report and Levy Assessment for the Downtown Lodi Business Improvement Area No. 1.

Economic Development Coordinator Goehring explained that in accordance with the Streets and Highways Code the following actions are required of the Downtown Lodi Business Improvement Area at the end of each fiscal year: 1) an annual report describing the assessments to be levied and collected to pay for the improvements and activities described in the report must be filed with the City Clerk's Office; this was done on September 7, 2001; 2) the Council shall approve the report, adopt a resolution of intention to levy assessments for the fiscal year, and set a public hearing to discuss the levy of assessments; this was accomplished on November 21, 2001. Mr. Goehring noted that the staff report for this item incorrectly stated the date of November 15 for this action; and 3) Council is required to conduct a public hearing in accordance with Section 36535 of the Streets and Highways Code and adopt a resolution confirming the report. Mr. Goehring reported that no written protests have been received on this matter.

Lew Van Buskirk, Executive Director of the Downtown Lodi Business Partnership (DLBP), stated that the DLBP is the organization that represents businesses in the downtown area. The DLBP jointly manages the downtown area in a private/public partnership, which has been in place for over three years. Issues that need to be managed include: street and sidewalk cleaning, parking, promotion of businesses, assistance with administration of regulations on businesses, street signage, etc. Mr. Van Buskirk attributed the recent success of the downtown area, in part, to the Elm Street project, Stadium 12 Theater, Parade of Lights, Farmers Market, and current construction of the new 350-stall parking structure on Sacramento Street. Fifteen new businesses were located in the downtown area and six more are anticipated early next year. He thanked the Council, City Manager, staff, and specifically Cynthia Haynes and Tony Goehring for their support of the DLBP.

Council Member Nakanishi thanked the parking committee for resolving parking problems in the downtown area.

Mayor Pro Tempore Hitchcock recalled that she had asked last year if the assessment district boundaries were reviewed in terms of developing equity. She noted that there has been a significant amount of growth and revitalization particularly in Area A.

Mr. Van Buskirk replied that the DLBP board plans to review the boundaries and assessments during 2002 and will return to Council with a recommendation before the end of the year. He commented that, customarily, assessments are not increased until the organization is at least five to ten years old.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Howard second, unanimously adopted Resolution No. 2001-297 entitled, "A Resolution Of The City Council Of The City Of Lodi Confirming The 2001/2002 Annual Report For The Downtown Lodi Business Improvement Area No. 1 And Levy Of Assessment."

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the Public Hearing to consider the establishment of development fees pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan.

Community Development Director Bartlam explained that land in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan is categorized by the type of habitat that may, or does, exist on the property today. Area A is a no pay zone either by virtue of existing development or by the biological review that took place during the habitat plan preparation, which determined that the properties have no habitat value. Areas A and B are a combination of either multi-purpose open space, natural, or agricultural open space with fees being \$845 per acre for Area A and \$1,690 for Area B. Properties primarily on the eastern edge of the county are considered vernal pool habitat.

In response to Council Member Howard, Mr. Bartlam stated that the White Slough facility treatment plant near Interstate 5 would have a pay category of \$1,690 per acre. Most of this area is classified as Category C/Pay Zone B and has been determined to be a habitat for the giant garter snake and Swainson's hawk.

In reply to Council Member Nakanishi, Mr. Bartlam explained that any properties the City might annex in the future would be subject to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan development fees. If the Council chose not to establish these fees, the City would still be considered a participant, but would not be able to collect the fees.

Hearing Opened to the Public

- a) Tony Goehring facetiously stated that knowing how long Mayor Pennino worked on the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, he has probably become an endangered species.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Mayor Pennino, Land second, unanimously adopted Resolution No. 2001-298 approving the Development Fee Schedule for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan along with the Compensation Map and related policies and procedures for the collection and use of the fees.

- G-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the Public Hearing to consider the appeal of Del Smith to the Planning Commission's decision to deny Use Permit U-01-20 to place a temporary office trailer at the existing Wine and Roses facility at 1037 Woodhaven Lane (APN 015-230-46).

Community Development Director Bartlam reported that this item relates to a project in which a temporary office trailer would be located at the Wine and Roses facility for a two-year period. The proposed location is north of the historic inn, on the Woodhaven Lane side of the new banquet facility. Staff had originally recommended that the Use Permit be limited to a period of one year based on a building code issue relative to the construction of the trailer. Subsequent to the Planning Commission's decision to deny the Use Permit, Mr. Smith met with staff and has outlined in a letter dated December 13, 2001 (filed), ways in which the trailer could be modified to meet code requirements. With the eight improvements as outlined in Mr. Smith's letter, staff now recommends approval of the Use Permit for a two-year period and requests that Council overturn the Planning Commission's decision on November 14, 2001 to deny U-01-20.

Mayor Pro Tempore Hitchcock believed that due to the significant changes from the original proposal, it would be more appropriate to refer this item back to the Planning Commission.

Hearing Opened to the Public

- a) Del Smith addressed Mayor Pro Tempore Hitchcock's comment by noting that he had asked to address the building code issues with the Planning Commission, but was informed that it was not possible because it was already too far into the process. He urged the Council not to refer the issue back to the Planning Commission as it would further delay the project, which began four months ago.

Council Member Howard appreciated the problem solving that had been done by Mr. Smith and staff related to this issue, and felt that it was appropriate to appeal the matter to the Council. She inquired what the associated costs would be of the eight improvements proposed by Mr. Smith.

Mr. Smith estimated the costs would amount to an additional \$5,000.

Council Member Land noted that he had previously visited the Wine and Roses facility and thanked Mr. Smith for describing his plans for the temporary building. He asked Mr. Smith if it would be feasible for him to return to Council within one year to provide a report on his plans for a permanent structure.

Mr. Smith indicated that due to a variety of changing circumstances at the facility, it would be difficult to determine the plan for a permanent structure within twelve months. Mr. Smith noted that he is fully aware that the Use Permit is only for a two-year period.

In reply to Council Member Land, City Manager Flynn and Public Works Director Prima noted that City trailers have been located at the Corp Yard and Parks and Recreation for a period of time extending one year.

Public Portion of Hearing Closed

MOTION:

Council Member Land made a motion, Howard second, to adopt Resolution No. 2001-299 overruling the Planning Commission's decision and granting a two-year Use Permit providing the following improvements are made:

- Provide five feet clearance from the south side of the trailer (B occupancy) to the Historic Inn (R-1 occupancy). This south wall of the trailer will be improved to become a one-hour firewall (5/8 sheet rock will be added to the inside and 5/8 sheet rock will be added to the outside).
- Provide nine feet clearance from the west side of the trailer (B occupancy) to the Garden Ballroom (A occupancy). This west wall of the trailer will be improved to become a one-hour firewall (5/8 sheet rock will be added to the inside and 5/8 sheet rock will be added to the outside).
- The only opening on these two adjacent walls of the trailer, adjacent to existing structures, will be two (one hour) rated doors.
- Locate the trailer behind a six-foot high decorative wall.
- Plant larger pepper trees adjacent to the road to better block the view.
- Paint the trailer siding to match the ballroom.
- Add shutters and flower boxes to the windows creating a cottage look.

DISCUSSION:

Mayor Pro Tempore Hitchcock noted that there are still unanswered questions in terms of the building, and commented that placing a foundation under the trailer might be advantageous.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Howard, Land, Nakanishi, and Mayor Pennino

Noes: Council Members – Hitchcock

Absent: Council Members – None

H. COMMUNICATIONS

H-1 On recommendation of the City's contract administrator, Insurance Consulting Associates, Inc. (ICA), and Human Resources staff, the City Council, on motion of Council Member Land, Howard second, unanimously rejected the following claim:

a) Maria Franco, date of loss 8/1/01

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 Appointments – None

H-4 Miscellaneous

a) Monthly Protocol Account Report through November 30, 2001

I. REGULAR CALENDAR

I-1 "Adopt resolution approving job specification changes to the position of Police Officer"

Human Resources Director Narloch explained that the amendments to the job specification for the position of Police Officer is necessary to reflect current industry standards. Many changes in terminology have occurred since the specification was last amended in 1985.

In response to questions by Mayor Pro Tempore Hitchcock, Police Chief Adams supported the amendments as presented, noting that it is preferable to simplify the job specification rather than including details, which could cause confusion.

MOTION/ VOTE:

The City Council, on motion of Council Member Land, Nakanishi second, unanimously adopted Resolution No. 2001-300 approving changes to the job specification for the position of Police Officer.

I-2 "Adopt resolution approving title and job specification changes to the position of Chief Building Inspector"

Human Resources Director Narloch reported that the job specification for the position of Chief Building Inspector was last updated in 1985. Proposed amendments reflect current job and industry standards.

Mayor Pro Tempore Hitchcock questioned the change in requirement for experience.

Ms. Narloch explained that the position of Chief Building Inspector evolved over the years in the City structure and is now a supervisory, mid-management position.

Community Development Director Bartlam noted that Chief Building Inspector Houston, who recently retired after 28 years, developed the position and it is desired, for recruitment purposes, that the job specification adequately reflect the position's current status and responsibilities.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously adopted Resolution No. 2001-301 approving changes to the job specification and title change for the position of Chief Building Inspector to Building Official.

- I-3 "Adopt resolution authorizing the City Manager to execute a contract with Liebert, Cassidy, Whitmore to conduct labor negotiations and other employment relations matters"

Mayor Pennino disclosed that he and Mayor Pro Tempore Hitchcock met with Mr. Young prior to tonight's meeting.

Human Resources Director Narloch stated that per Council direction staff conducted a search for qualified individuals and firms to provide labor negotiations for the City. After interviewing four firms selected from the applications, the interview panel unanimously agreed that Mr. Young was the best candidate.

E. Kevin Young, of Liebert Cassidy Whitmore, stated that he is a litigator, negotiator. Prior to becoming an associate with his current firm he was a city attorney for the City and County of San Francisco, and previous to that, was a district attorney in Oregon.

In response to Council Member Howard, Ms. Narloch confirmed that the quotes of each of the applicants were similar.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Howard second, unanimously adopted Resolution No. 2001-302 approving the contract with Liebert, Cassidy, Whitmore to conduct labor negotiations and other employment relations matters.

RECESS

At 8:30 p.m., Mayor Pennino called for a recess and the City Council meeting reconvened at 8:38 p.m.

I. REGULAR CALENDAR (Continued)

- I-4 "Approve City of Lodi Electric System Revenue Variable Rate Demand Certificates of Participation, 2002 Series A and Electric System Revenue Variable Rate Demand Certificates of Participation, 2002 Taxable Series B (combined issue size \$57,300,000)"

Electric Utility Director Vallow introduced George Wolf of Salomon Smith Barney, and Alex Burnett of Public Financial Management.

George Wolf stated that there were two parts to the transaction being considered. First, is refunding the existing Series 1999 Certificates of Participation (COP) to fund capital improvements to the distribution system and a small transmission project. The Utility has an opportunity to save money by refunding the COPs and shaving interest rates by 150 basis points. Under current market conditions the estimated savings from this refinancing is \$3 million on a present value basis, which represents over 8% of the refunded COPs. In addition, the Utility is going to take advantage of this transaction by contributing approximately \$6 million of construction funds from the Series 1999 issue, as they feel it is no longer needed for the original purpose. That \$6 million will be put into the escrow, effectively reducing the size of the amount of debt outstanding by that amount. The Utility is structuring this transaction to take all of the savings from both the shaving of interest rates and re-injection of the \$6 million after 2010, which will result in cash flow savings of approximately \$1 million a year. The second part of the transaction is a taxable borrowing of approximately \$10 million. In the current market the average interest cost would be 5.5%. The Utility's plan is to amortize this debt over eight years on a level debt service basis, with final maturity in 2010. Under current market conditions that would result in debt service of approximately \$1.6 million a year. Under current operating projections the proceeds of this issue will not be spent. Proceeds will be deposited into segregated funds such as the rate stabilization fund or another sub-fund that was designated by the Utility to be separate and apart from operating reserves of the Utility.

Mr. Wolf reviewed the difficulties that Lodi Electric Utility sustained during 2001 and noted that in response, the Utility has proposed a three-step change in business strategy:

1. The Market Cost Adjustment (MCA) is a mechanism which allows the Utility to recover extraordinary and unforeseen costs that are not recovered in base rates, without having to raise base rates.
2. The Utility has elected to restructure its power contract to match more closely its expected load from season to season, in an effort to avoid any exposure to unusual changes in the cost of market power.
3. The purpose of the \$10 million taxable borrowing is to increase the liquidity position of the Utility immediately, rather than allowing the MCA to gradually increase the liquidity over a period of years. By issuing bonds that amortize over eight years, the Utility will be able to bring down the MCA much more quickly.

Alex Burnett reported that over the last two weeks the market has been extremely volatile. The complex structure of the refunding involves an interest rate swap, which is a long-term contract between parties to exchange payments and can involve counter party and tax risks. The effect of the interest rates swap is that the refunding would have a fixed interest rate.

In answer to questions posed by Council Member Land, Mr. Burnett stated that as an independent financial advisor working on behalf of the City, he recommends both the refinancing and the taxable borrowing. He confirmed that due to a deterioration of the market, the \$5.4 million net present value savings to refund the outstanding 1999 Electric Utility revenue bonds has decreased to \$3 million. As of yesterday, the overall debt service savings is \$15.6 million, which is in part, due to the contribution of the \$6 million.

Council Member Land pointed out that there would be a \$1 million annual cash flow savings after year 2010. He noted that the \$10 million is needed for liquidity and asked Mr. Vallow for confirmation that it would not be used for operations, to which Mr. Vallow stated that it would not.

At the request of Council Member Howard, Mr. Vallow explained why it is necessary for the Utility to have a certain level of reserves. He reported that at the end of 1999-2000 the Utility had a cash balance of nearly \$16 million, which provided sufficient reserves to withstand extremely high costs. Subsequently, two MCAs were implemented. The proposal under consideration presents a plan to replenish the reserves at essentially no additional cost and give the Utility the ability to remove most of the MCA. If it is not approved, the Utility will not have sufficient reserves to withstand unforeseen costs and the rates will have to remain artificially high for up to two years.

Mayor Pro Tempore Hitchcock expressed concern that this proposal is, in essence, funding last year's operating expenses. She asked for confirmation from Mr. Vallow and fellow Council Members that should volatility occur next year, that an additional request would not be made for long-term financing to fund operating expenses. She expressed a desire to stipulate that this borrowing could only be used to even out the Utility's cash flow problems.

Mr. Vallow confirmed that the funds can be segregated. Revenue requirement increases will be brought to Council. Costs that need to be recovered will be accomplished through rates or operating cutbacks within the department.

Mayor Pro Tempore Hitchcock hoped that fixed-income individuals would be considered, should another MCA be necessary. She preferred that the MCA not be included in the 12% general fund transfer from Electric Utility.

Mayor Pennino stated that he had confirmed with the City Manager that 100% of the MCA is going to pay for generation cost and is not being transferred to the general fund.

Council Member Nakanishi stated that Electric Utility is already paying for a \$43.9 million loan. Refinancing the loan will result in a \$5 million present value savings. Also with this proposal, in 2010, the City will have a \$1.6 million cash flow increase. He explained that all businesses need a certain amount of cash flow and the \$10.2 million of taxable Electric Revenue COPs is necessary to replenish the Utility's reserves. The goal of Lodi Electric Utility is to keep rates down and preserve the \$4.5 million transfer to the general fund. He described the Utility's COP proposal as a good business plan.

Mayor Pennino stated that he would like Council to receive a monthly report on this specific fund.

Council Member Land recalled that approximately a year ago the Utility purchased power at \$175 a megawatt and at that time power was averaging \$600 to \$650 a megawatt hour. After this purchase, the Federal Energy Regulatory Commission (FERC) put a cap on power at \$70 a megawatt, which resulted in a depletion of the Utility's reserves. He cautioned Council that if a reduction to the general fund transfer is considered, they will need to make a decision on what services and programs will be cut.

Mr. Burnett acknowledged that borrowing for the purpose of funding ongoing operations would not be prudent. Segregating the \$10 million to be used for temporary cash flow to promote the long-term fiscal stability of the enterprise is prudent fiscal strategy.

In reply to Mayor Pro Tempore Hitchcock, Mr. Burnett explained that taxable bonds bear a higher marginal investment interest rate. The use of proceeds of any financing is governed by the 1986 Tax Act. There are restrictions on the investment earnings on a tax-exempt obligation. With taxable bonds the money can be invested without restriction to any kind of yield or other arbitrage rebate in other federal tax liability. Because they are taxable investments they can be used more liberally for cash flow purposes. Tax exempt obligations are typically used for building a public facility, not for segregating for purposes of investing and boosting liquidity.

In response to questions by Mayor Pro Tempore Hitchcock, Mr. Vallow reported that the projected net loss to the Utility, due to increased costs and the subsequent FERC ruling, amounted to \$13 million, of which approximately \$9 million is made up through the MCA.

Mayor Pennino asked the Finance Director whether she believed the COPs being considered would be a prudent decision. Ms. McAthie replied in the affirmative, noting that it should be segregated. Reports should be made on any borrowing for a cash flow, and paid back by the end of the fiscal year.

Council Member Nakanishi pointed out that \$4 million was used from the Utility's reserves due to increased costs and was not recouped through rates.

MOTION #1 / VOTE:

The City Council, on motion of Council Member Land, Hitchcock second, unanimously adopted Resolution No. 2001-303 entitled, "A Resolution Of The City Council Of The City Of Lodi Relating To Electric System Revenue Variable Rate Demand Certificates Of Participation, 2002 Series A And Electric System Revenue Certificates Of Participation, 2002 Taxable Series B; Approving The Forms Of And Authorizing The Execution And Delivery Of An Installment Purchase Contract, A Certificate Purchase Contract, An Escrow Agreement, An Official Statement, A Continuing Disclosure Agreement, And A Remarketing Agreement, And Approving The Distribution Of A Preliminary Official Statement In Connection Therewith; and Authorizing Certain Other Matters Relating Thereto."

MOTION #2 / VOTE:

Further, the City Council, on motion of Mayor Pro Tempore Hitchcock, Land second, unanimously adopted Resolution No. 2001-304 stipulating that the \$10,200,000 of taxable Electric Revenue Certificates of Participation (2002 Taxable Series B) can be used to assist in the management of cash flow for the Electric Utility or as otherwise directed by the City Council and not for operating or maintenance expenses of the Utility.

- I-5 "Authorize the execution and delivery of an Interest Rate Swap Agreement for the City of Lodi Electric System Revenue Variable Rate Demand Certificates of Participation, 2002 Series A and Electric System Revenue Variable Rate Demand Certificates of Participation, 2002 Taxable Series B (combined issue size \$57,300,000)"

In response to Mayor Pro Tempore Hitchcock, Alex Burnett stated that typically there is not a call feature on the type of funding being proposed. While the variable rate bonds are callable to the extent that the swap is terminated prior to maturity, there is a value that is calculated, predicated on the market conditions at the time. That value would not be an incentive for either the City or Salomon Smith Barney to terminate the transaction. There is less of an ability to call the bonds early on the refunding side.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Land second, unanimously adopted Resolution No. 2001-305 entitled, "A Resolution Of The City Council Of The City Of Lodi Relating To Electric System Revenue Variable Rate Demand Certificates Of Participation, 2002 Series A Authorizing Execution And Delivery Of An Interest Rate Swap Agreement And Directing Certain Actions Relating Thereto."

- E-10 "Adopt resolution awarding contract for Landscape and Irrigation Installation on the South Hutchins Street Median to Odyssey Landscape Company, of Stockton (\$184,040); and appropriate funds for the project"

At the request of Council Member Land, Public Works Director Prima reported that capital funds would be used to complete the landscaping on the Hutchins Street median, including the frontage road, north of Century Boulevard on the east side of the street. The project should be completed this spring. Staff is working with a service club on possible replacement of the crepe myrtle trees and will return to Council with a recommendation.

MOTION:

Council Member Land made a motion, Nakanishi second, to adopt Resolution No. 2001-306 awarding the contract for Landscape and Irrigation Installation on the South Hutchins Street Median to Odyssey Landscape Company, of Stockton, in the amount of \$184,039, and appropriate \$190,000 for the project.

DISCUSSION:

Mayor Pennino hoped that, in the future, the Council would consider putting grass in the medians.

VOTE:

The above vote carried by a unanimous vote.

- E-11 "Adopt resolution authorizing the City Manager to execute a professional services agreement with Mark Thomas & Company, Inc., for the preliminary design services associated with the Lodi Avenue Agreements for the project; and appropriate \$240,000 for the project"

Public Works Director Prima reported that a verbal agreement has been reached with the railroad related to this project and engineering work now needs to proceed in earnest so that a written agreement can be reached.

Charlie Swimley, Senior Civil Engineer, reported that the Lodi Central City Railroad Safety Improvement Project was originally initiated as a Measure K grade separation project at the intersection of the UP railroad and Lodi Avenue. In 1997 the grade separation was deemed too expensive and would negatively impact the downtown area. In 1999 the Council authorized a consultant to prepare a cost estimate. Discussions and meetings with the railroad have been ongoing. To facilitate the removal of tracks on Lodi Avenue, the Kentucky House branch will need to be reactivated. The project goals are to improve rail safety, improve the pavement surface on Lodi Avenue, reduce traffic congestion on Lockeford Street, encourage redevelopment of the Lodi Avenue corridor, and secure

reliable railroad service to the Lodi industry. Phase one of the project includes preliminary design work. Phase two is a memorandum of understanding (MOU) between the City and the railroad.

Mr. Swimley stated that subsequent phases would include the following:

- establishing a design theme for Lodi Avenue
- removal of the railroad tracks on Lodi Avenue
- addition of a driveway off Lodi Avenue into the Orchard/Kmart shopping center
- reactivating the Kentucky House branch
- reconstructing a single track from the UP railroad mainline to the CCT line
- constructing/switching of storage facilities that will be located on the north side of Lockeford Street
- adding pedestrian crossings at Lockeford and Calaveras Streets
- adding crossing arms at the intersections
- reconstructing Lockeford Street by widening it to four lanes and constructing pedestrian barriers and frontage along the corridor

Mr. Swimley reported that a preliminary estimate in 1999 projected the cost to be approximately \$12 million. The City has secured funding sources through Measure K grants, \$2.8 million in congestion relief funds, and \$3.9 million from railroad crossing safety funds. He anticipated construction to begin in 2003.

Mr. Prima stated that it is staff's intention to have a clause that the railroad will agree to cease using the Lodi Avenue tracks as of the date of the MOU after which interim repair work would be done to remove the hazard, such as paving over the tracks.

At the request of Mayor Pro Tempore Hitchcock, Mr. Swimley reviewed the process involved in the Request for Proposals for the preliminary design services. Mark Thomas & Company was deemed most qualified out of the four firms that were interviewed.

Mayor Pennino stated that the redesign of Lodi Avenue should start immediately, rather than waiting for an agreement with the railroad. He expressed a desire for expediency in black topping the railroad tracks and adding the driveway into the Orchard/Kmart shopping center.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously adopted Resolution No. 2001-307 authorizing the City Manager to execute a professional services agreement with Mark Thomas & Company, Inc., of Sacramento, for preliminary design services associated with the removal of the Lodi Avenue railroad track, from the Union Pacific Railroad (UPRR) tracks to Cherokee Lane; authorizing the City Manager to execute Measure K Cooperative Agreements for the project; and appropriating \$240,000 for the project.

J. ADJOURNMENT TO AGENCY MEETINGS

J-1 "Meeting of the Lodi Public Improvement Corporation"

At 10:00 p.m., Mayor Pennino adjourned the City Council meeting to conduct the meeting of the Lodi Public Improvement Corporation. Following the call to order, Secretary Blackston recorded roll.

The Corporation, on motion of Director Land, Nakanishi second, unanimously adopted Resolution No. LPIC2001-01 electing the new officers to the Lodi Public Improvement Corporation for the year 2002.

Further, the Corporation, on motion of Director Hitchcock, Land second, unanimously adopted Resolution No. LPIC2001-02 entitled, "A Resolution Of The Lodi Public Improvement Corporation Relating To Electric System Revenue Variable Rate Demand Certificates Of Participation, 2002 Series A And Electric System Revenue Certificates Of Participation, 2002 Taxable Series B; Approving The Forms Of And Authorizing The Execution And Delivery Of An Installment Purchase Contract And A Trust Agreement In Connection Therewith; And Authorizing Certain Other Matters Relating Thereto."

There being no further business, the meeting was adjourned at 10:01 p.m.

J-2 "Meeting of the Industrial Development Authority"

At 10:01 p.m., Chairperson Pennino called to order the meeting of the Industrial Development Authority, and Secretary Blackston recorded roll.

The Authority, on motion of Authorizing Member Howard, Land second, unanimously adopted Resolution No. IDA-22 electing the new officers to the Industrial Development Authority for the year 2002.

There being no further business, the meeting was adjourned at 10:01 p.m.

J-3 "Meeting of the Lodi Financing Corporation"

At 10:02 p.m., President Pennino called to order the meeting of the Lodi Financing Corporation, and Secretary Blackston recorded roll.

The Corporation, on motion of Director Nakanishi, Hitchcock second, unanimously adopted Resolution No. LFC-8 electing the new officers to the Lodi Financing Corporation for the year 2002.

There being no further business, the meeting was adjourned at 10:02 p.m.

J-4 "Meeting of the City of Lodi Redevelopment Agency"

At 10:03 p.m., Chairperson Pennino called to order the meeting of the City of Lodi Redevelopment Agency, and Secretary Blackston recorded roll.

The Agency, on motion of Member Land, Nakanishi second, unanimously adopted Resolution No. RDA2001-02 electing the new officers to the City of Lodi Redevelopment Agency for the year 2001, and, further, waiving the entitled compensation for this meeting.

There being no further business, the meeting was adjourned at 10:03 p.m.

Mayor Pennino reconvened the City Council meeting at 10:03 p.m.

K. ORDINANCES

K-1 Ordinance No. 1707 entitled, "An Ordinance Of The Lodi City Council Adding Chapter 15.68 To The City Of Lodi Municipal Code By Establishing Development Fees Pursuant To The San Joaquin County Multi-Species Habitat Conservation And Open Space Plan" having been introduced at a regular meeting of the Lodi City Council held November 21, 2001 was brought up for passage on motion of Mayor Pro Tempore Hitchcock, Land 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 – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

Continued December 19, 2001

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

- Each Council Member wished everyone a merry Christmas and happy New Year.
- Council Member Land thanked the Mayor for his leadership, and stated that he believed in Santa Claus.
- Council Member Howard stated that she has enjoyed her first year as a City Council Member and was grateful for having been given the opportunity.

M. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced that Richard Prima's birthday was December 30. He commented that all of his children and grandchildren will be at his home for Christmas this year.

N. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:05 p.m.

ATTEST:

Susan J. Blackston
City Clerk