

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, SEPTEMBER 4, 2002**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of September 4, 2002 was called to order by Mayor Pennino at 6:02 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

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Conference with Labor Negotiator, Human Resources Director Joanne Narloch, regarding Association of Lodi City Employees regarding General Services and Maintenance and Operators; International Brotherhood of Electrical Workers, Lodi Police Dispatchers Association, Lodi Police Officers Association, United Firefighters of Lodi, Confidential Employees, Management and Mid-Management Employees pursuant to Government Code §54957.6

b) Pursuant to Government Code §54956.9(c); conference with legal counsel; anticipated litigation/initiation of litigation; one potential case; City of Lodi v. PG&E

C-3 ADJOURN TO CLOSED SESSION

At 6:02 p.m., Mayor Pennino adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:54 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:02 p.m., Mayor Pennino reconvened the City Council meeting, and City Attorney Hays disclosed the following actions.

In regard to Item C-2 (a), no reportable action was taken.

In regard to Item C-2 (b), Council provided staff direction with regard to the anticipated litigation/initiation of litigation concerning City of Lodi v. PG&E.

Mayor Pennino reported that he abstained from discussion on Item C-2 (b) due to a potential conflict of interest related to his employment with PG&E.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of September 4, 2002 was called to order by Mayor Pennino at 7:02 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 Pastor Chuck Springer, Calvary Bible Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Pennino.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

NOTE: The following items were presented in the order indicated below.

Mayor Pennino announced that proclamations in remembrance of the September 11, 2001 terrorist events have been prepared and will be sent to the citizens of New York City and employees of the Pentagon. He invited all citizens of Lodi to sign the proclamations. In addition, he announced that effective September 26, Lodi City Council meetings will be televised live on SJTV Cable channel 26.

D-1 Awards – None

D-2 (a) Mayor Pennino presented a proclamation to Stephanie Allen with the Lodi Public Library's Adult Literacy Services proclaiming Sunday, September 8, 2002 as "International Literacy Day" in the City of Lodi.

D-3 (a) Captain Frank Severs with the Lodi Salvation Army announced the relocation of its facility from Downtown Lodi to 622 N. Sacramento Street.

D-3 (d) Following a presentation by Community Promotions Coordinator, Cynthia Haynes, Mayor Pennino presented a proclamation proclaiming Thursday, September 12th as the "7th Annual Community Day of Caring" in the City of Lodi.

Council Member Howard commented that donations may be given specifically to the Lodi Salvation Army through the United Way Campaign.

D-2 (b) Mayor Pennino presented a proclamation to Sue de Polo with San Joaquin A+ proclaiming the week of September 16 – 22, 2002 as the "San Joaquin A+ Fourth Annual Reads Week" in the City of Lodi.

Mayor Pro Tempore Hitchcock noted that San Joaquin A+ donates books and book bags each year for young students. She commented that recently she gave her students a bookmark with the following inscription, which she believed exemplified the importance of literacy: "The more you read, the more you know; the more you know, the smarter you grow; the smarter you grow, the stronger your voice in speaking your mind and making your choice."

D-3 (c) Community Promotions Coordinator, Cynthia Haynes, reported that over \$680,000 was raised last year for United Way in the City of Lodi and more than \$4.7 million was raised in San Joaquin County, which assisted more than 1,000 not for profit organizations and churches within the community. Mayor Pennino presented an award from United Way of San Joaquin County to Ms. Haynes and City Manager Flynn in acknowledgement for outstanding support of the local 2001-2002 United Way Campaign.

D-3 (b) Community Promotions Coordinator, Cynthia Haynes, announced that last year's Hospice Tree Lighting event raised \$33,000 and assisted more than 850 families and offered adult and child bereavement services to more than 300 participants. Ms. Haynes thanked Electric Utility for its assistance in placing the lights on the tree in front of City Hall, as well as David Ayers a PG&E employee, who, along with his son, builds and sets up the glass cases each year throughout the county. She thanked the Bank of Lodi for sponsoring the event each year and announced that this year's Hospice Tree Lighting event is scheduled for December 5. Mayor Pennino presented an award of appreciation from Hospice of San Joaquin County to Ms. Haynes and City Manager Flynn.

D-2 (c) "Constitution Week" was **pulled from the agenda as the representative scheduled to accept the proclamation was absent due to illness.**

E. CONSENT CALENDAR

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

E-1 Claims were approved in the amount of \$2,799,853.14.

- E-2 The minutes of August 6, 2002 (Shirtsleeve Session), August 7, 2002 (Regular Meeting), August 13, 2002 (Shirtsleeve Session), and August 20, 2002 (Shirtsleeve Session) were approved as written.
- E-3 Approved the plans and specifications for Lawrence Park Playground Improvements, 350 N. Washington Street, and authorized advertisement for bids.
- E-4 Approved the plans and specifications for Salas and Legion Playground Improvement Project, 2001 S. Stockton Street and 835 S. Hutchins Street, and authorized advertisement for bids.
- E-5 Approved the specifications for Parks and Recreation Tabloid printing, and authorized advertisement for bids.
- E-6 Approved the specifications for 25 post-top globe-style luminaires and authorized advertisement for bids.
- E-7 Adopted Resolution No. 2002-185 authorizing the purchase of 25 "Lodi Replica" concrete street light standards from the sole supplier, NCS Company, of Auburn, California, representing Traditional Concrete, Inc., in the amount of \$28,497.71.
- E-8 Adopted Resolution No. 2002-186 awarding the bid for six sections of portable stage, with risers, rails, and drapes, to the low bidder, SICO America, Inc., of Minneapolis, in the amount of \$8,379.18.
- E-9 "Adopt resolution authorizing the City Manager to approve Contract Change Order for DeBenedetti Park (\$81,500)" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**
- E-10 Set public hearing for October 16, 2002 to consider Reimbursement Agreement #RA-02-02 for Public Improvements constructed with the Sunwest Marketplace Shopping Center.
- E-11 Approved the request to join amicus brief in the case of Border Business Park v. City of San Diego, Court of Appeal, 4th District No. D039225.
- E-12 "Adopt resolution authorizing the City Manager to provide funding in the amount of \$30,000 to extend the Public Benefits Program Grant Lodi Small Business Energy Services Partnership" was **pulled from the agenda pursuant to staff's request.**
- E-13 "Adopt resolution authorizing the City Manager to provide funding in the amount of \$7,619.83 to fund the Right Way/Old Farmers & Merchants Bank building Demand-side Management Project" was **pulled from the agenda pursuant to staff's request.**
- E-14 "Adopt resolution authorizing the City Manager to provide funding in the amount of \$39,794 to fund the Valley Industries Lighting Retrofit/Demand-side Management Project" was **pulled from the agenda pursuant to staff's request.**

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Walter Pruss requested that the City prepare a report of indebtedness. He believed that the citizens of Lodi have a right to know what the debt is because they are paying for it. He asked that the report include, but not be limited to, the following projects: White Slough Wastewater System, Lower Sacramento Road Widening, Downtown Revitalization, Cherokee Lane Revitalization, New Police Station, and Fire Station #4. He specified that he would like the report to identify the projects and locations, total cost including all change orders, the dates the projects were initiated and completed, the interest rate, what the periodic payments are, how much the payments are, how the projects were financed, and the date of the final payment. In addition he requested information on projects that are planned to be done in the next two to three years, including the estimated cost and increases due to inflation, changes, method of financing, and duration. He asked to also be provided with a report on the City's credit rating.

- John Johnson, Chairman of the Lodi Sports Foundation, announced that 200 people participated in the Foundation's Labor Day run. He thanked the Parks and Recreation Department, Roger Baltz, Steve Dutra, Mike Reese, the Police Partners, and the traffic police. He noted that Lodi Electric Utility was the lead sponsor. Volunteers included the Lodi City Swim Club, Lodi High School Drill Team, and Leadership Lodi. A public meeting has been scheduled for September 16 to unveil the first design and model for the proposed Indoor Sports Center. Mr. Johnson noted that individuals wishing to contribute to the United Way Campaign can specify the Lodi Sports Foundation.

G. PUBLIC HEARINGS

None.

H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

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

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Land, Hitchcock second, unanimously directed the City Clerk to post for the following vacancy:

Lodi Arts Commission

Robin Knowlton Term to expire July 1, 2004

H-4 Miscellaneous – None

I. REGULAR CALENDAR

- I-1 a) "Adopt resolution accepting Certificate of Sufficiency of Petition for the referendum against Ordinance No. 1713, which approved and adopted the Redevelopment Plan for Lodi Redevelopment Project No. 1"

City Clerk Blackston reported that Ordinance 1713 was introduced at the City Council meeting of June 19 and was adopted on July 3. On August 1 a referendum petition against Ordinance 1713 was filed in the City Clerk's Office. Following prima facie review the petition was forwarded to the San Joaquin County Registrar of Voters Office on August 2. On August 16, based upon a full check of the signatures, the Registrar of Voters certified the petition as sufficient. The results of the examination were as follows:

- Number of signatures filed and verified were 4,841
- Number of signatures found sufficient were 3,594

Ms. Blackston reported that a minimum of 2,593 valid signatures were required to qualify the petition, and therefore, she recommended that Council adopt a resolution accepting the certificate of sufficiency of the petition for the referendum against Ordinance 1713.

Mayor Pro Tempore Hitchcock stated that there were obviously a large number of citizens who have concerns and a lack of trust about what the Council and government might do. She stated that it reflects people's general distrust of government and noted that whatever is decided to be done about this issue in the future, it should be very inclusive and every effort should be made to mitigate as many differences as possible.

MOTION REGARDING I-1(a) / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Nakanishi second, unanimously adopted Resolution No. 2002-187 accepting the Certificate of Sufficiency of Petition for the referendum against Ordinance No. 1713, which approved and adopted the Redevelopment Plan for Lodi Redevelopment Project No. 1.

- I-1 b) "Introduction of ordinance repealing Ordinance 1713, which approved and adopted the Redevelopment Plan for the Lodi Redevelopment Project No. 1"

City Attorney Hays explained that California Elections Code Section 9241 outlines Council's options regarding this matter.

Community Development Director Bartlam stated that the Council can either call an election to submit the ordinance to the voters, or repeal the ordinance. Staff recommends that the ordinance be repealed, but with specific direction for staff to bring back a new Redevelopment Plan ordinance with the elimination of the eminent domain provision. He believed that the chief opposition to the Plan was the ability of the Redevelopment Agency to condemn and subsequently purchase property for purposes of Agency business. He explained that the direction staff is suggesting would eliminate that possibility altogether so that the agency would not have the ability to acquire property against a person's will and any acquisition that took place would be on a willing buyer, willing seller basis. Procedurally, staff would make the necessary changes to the document and begin the process of public meetings at the Planning Commission and Project Area Committee level to ascertain what other concerns might exist beyond the issue of eminent domain. Mr. Bartlam estimated that the process would take five to six months before it would be brought back to Council for final action.

In reply to Council concerns, Mr. Bartlam confirmed that property owners and tenants would be notified about the process, in addition to published public notices. Staff would ensure that all interested persons had an opportunity for input.

At the request of Council Member Howard, Mr. Bartlam explained that the Redevelopment Plan deals only with the business of the Redevelopment Agency. The City Council has the capability of acquiring property through eminent domain for public purpose, and can use that, regardless of what is decided with the Redevelopment Agency. The recommendation by staff is to eliminate the possibility of the Redevelopment Agency to have eminent domain authority for public purpose or otherwise.

PUBLIC COMMENTS:

- Jane Lea announced that she wished to address the efforts of the citizens of Lodi who walked neighborhoods to collect signatures, and those who signed the referendum petition with the understanding that they would be given a choice to vote on the fate of the proposed new layer of government called the Redevelopment Agency. She stated that the overwhelming number of signatures clearly shows that the people of Lodi want a voice by voting on an issue that will affect all future generations of Lodians. She asked why, as elected officials, the Council is not listening to the citizens. The \$140,000 consultant that the City hired has advised staff that all it needs to do is change the wording and resubmit the ordinance to Council. It is established in State law that any redevelopment agency has the power of eminent domain, i.e., to take private property away from an owner for the use of another private owner. Therefore, removing eminent domain language from the ordinance is pointless and does not constitute a "significant" change. She asked what staff's recommendation will cost. She noted that the consultants determined that the downtown area was blighted even after the City spent \$4 million in improvements. She stated that any future Measure K funds or Community Development Block Grant money should be spent for sidewalks and replacing sewer lines in the older districts as it was intended. She encouraged Council to consider what 3,500 voters have asked their elected representatives, and pointed out that Council Members need 5,000 to 7,000 votes to get elected or reelected. She concluded by asking what the procedure was to recall a Council Member.

In answer to Mayor Pro Tempore Hitchcock, Ms. Lea stated that the signers she spoke to did not believe they had been properly informed about the Redevelopment Plan and that something of this magnitude should be a decision of the people that live in the area.

Council Member Land read the following statement from the Plan and asked Ms. Lea, after considering it, whether she believed redevelopment was good or bad: "Through redevelopment a project area will receive focused attention and financial investment to reverse deteriorating trends, create jobs, revitalize the business climate, rehabilitate, and build housing."

Ms. Lea replied that it sounds good if instituted as read and targeted to the areas that need it.

- Eunice Friederich thanked Mayor Pennino for returning her call. Ms. Frederick stated she had informed the Mayor that she was concerned not only about eminent domain, but also about borrowing money and the Mayor had informed her that Lodi was not that much in debt compared to other cities. She stated that she was appealing to the Council as a Christian and quoted the following, "For which of you intending to build a tower sit us not down first and counteth the cost, whether he have sufficient to finish it, lest happily after hath laid the foundation and is not able to finish it, all that beheld him began to mock him." Ms. Friederich emphasized that she was concerned about raising taxes and borrowing money and stated, "the borrower is servant to lender." She noted that the City already has a plan to replace the old sewer and water lines and has raised fees to fund it.

Council Member Howard apologized for not returning Ms. Frederick's call. She stated that one of the concerns she has heard is a fear that if the redevelopment agency is not able to pay its debt, then the money would come out of the general fund. She explained that with a redevelopment agency if there is debt that needs to be paid back it does not come from the assets of the City. If the redevelopment agency was not able to pay the money it owed, it would not receive tax increment dollars. The redevelopment agency would still have to commit to the 20% allocation for low-income housing, but any other monies that came in through the tax increment could not be used for other things. In reference to loans, Ms. Howard stated that it was her understanding that the City would not be going out for bonds during the first couple of years of the Plan. The hope is to enhance the down payment assistance and housing rehabilitation programs.

Council Member Land asked Ms. Friederich what her plan would be to improve the areas in the Redevelopment Plan.

Ms. Friederich indicated that it would best be handled by the free enterprise system, and noted that churches and other organizations volunteer their assistance.

Mayor Pro Tempore Hitchcock explained that the redevelopment agency is a way to keep taxes in Lodi rather than going to the State. Lodi does not have the resources to do all that needs to be done on the east side and the City cannot get the private investors to come in and invest in the area unless they have some incentive.

At the request of Mayor Pennino, Mr. Bartlam described the three ways that property taxes can increase in California: 1) the County Assessor has the ability to raise property tax based on an inflation factor of up to 2% a year; 2) property taxes can raise by redevelopment of a property, i.e., a higher property tax is based on the value of the improvement; and 3) sale of property. He explained that when property is sold to someone else, the buyer will pay a higher property tax based upon a higher value of the property than what had been paid previously. He emphasized that neither the City Council nor the Redevelopment Agency have any effect over these ways to increase property tax.

- Jack Flockhart stated that he is a native of Lodi and a concerned citizen about debt and the condition of the east side. He stated that the City was aware 20 years ago that the sewer lines needed to be replaced. He believed that money had been set aside for this purpose, but was used for other activities. For ten years the City knew about needing to upgrade the sewer plant. The City has spent money on improving the downtown area rather than these other priority projects. He was told that the City was \$96 million in debt.

Council Member Land explained that the City, in essence, has four businesses: 1) Water, 2) Wastewater, 3) Electric, and 4) City funds. If all four businesses were put together, the total debt is close to \$96 million. He stated that he was not aware of any money that was taken out of the wastewater fund and put into the general fund to pay for capital projects.

City Manager Flynn recalled that the last report on the general fund had \$26 million in general obligation Certificates of Participation, the electric fund has approximately \$90 million, and the water fund has \$11,170,000.

Council Member Howard stated that the balance between the City's debt and its worth is in good relation to one another. There is an appropriate balance between the City's expenses, income, and debt. She pointed out that the City's debts and assets are not the same as the redevelopment agency's debt and finances.

Mayor Pro Tempore Hitchcock expressed her opinion that the City has too much debt.

Council Member Land reported on the following debt as of July 1:

- Sewer fund – \$9.4 million
- Water fund – \$2.7 million
- General fund – \$26.7 million
- Electric fund – has two bonds, one for \$46.8 million and one for \$7.3 million

- Camille Green asked Council to give up the idea that Lodi needs a redevelopment agency. She pointed out that the City already has the "ugly" ordinance, health and safety codes, fines, etc., as well as improvement officers who have the authority to enforce the codes. The City is currently collecting money for infrastructure replacement over the next 100 years. She stated that removing the eminent domain authority from the redevelopment plan is not a satisfactory change because state law continues to allow for it. She recalled that when the East Side Improvement Committee (ESIC) was originally formed there were fines levied, people were taken to court to collect fees, property was liened, and notices were sent to landlords. The ESIC has since lost this authority. She stated that the redevelopment plan allows the redevelopment agency to give property to private investors. She believed that it should be up to the property owners to make needed improvements.

Council Member Land read the following statement regarding the historical preservation area, "encourage the maintenance, improvement, and rehabilitation of the City's existing housing stock in residential neighborhoods."

- Robert Riggle commented that it sounds as though Council Members have already made up their minds. Referring to the earlier statement about Lodi having four businesses, he asked whether it needs another one in the form of the redevelopment agency. He recalled reading in the newspaper that 30% of redevelopment agencies go bankrupt. He asked where the low-cost housing is on the City's vacant lots located on the corner of Washington and Pine Streets, and where the apartment building burned down near the Legion building. In conclusion, he stated that the redevelopment plan public notices were sent in a wasteful manner, i.e. one for each property address, rather than to the property owners.

Mayor Pro Tempore Hitchcock replied that the lots are still vacant because the property around them is in poor condition. Using Sacramento Street as an example, she noted that after the City put investment in the area it stimulated the private sector to buy buildings that previously they would not make an investment in. The redevelopment agency could benefit the east side area in the same manner.

Council Member Land recalled that the redevelopment agency was established July 7, 1999. An election was conducted for the Project Area Committee. There were many public notices, meetings, and articles in the newspaper about the redevelopment plan.

- Dan Larson encouraged the Council to completely repeal the ordinance approving the redevelopment plan and not consider an amended version. He did not believe that removing eminent domain would improve the plan. He was opposed to bigger government and stated that the east side could be improved through code enforcement and community projects.

- Dorothy Mehrer pointed out that the redevelopment plan was promoted to clean up blight on the east side, and yet much more is involved, e.g., infrastructure replacement, parking improvements in commercial areas, a community center, library, education and training center, façade improvement in the downtown, etc. She believed the agency's goal is to get rid of all the small, irregular lots, faulty exterior buildings, etc., and gather these pieces of land together to resell at a higher tax rate for new investment. Even if eminent domain is removed from the new plan it can still be done under state law. Residents of Lodi have to pay in taxes all the debt the City currently has and all the debt the redevelopment agency would incur. She asked Council to repeal the ordinance and not bring it back.

City Attorney Hays confirmed that redevelopment agencies have the option to either include or not include the power of eminent domain within their plan document. If they exclude it, then the redevelopment agency cannot itself use the power of eminent domain to do any of the agency business.

Council Member Howard agreed and reiterated that the redevelopment agency cannot use eminent domain if the Council decided not to include it in the plan. The City could use eminent domain, but the key difference is that it would have to show that the property acquisition would be for a public benefit, such as fire stations, parks, etc.

- Vi Riggle asserted that it appears the Council is trying to convince each speaker that they should be in favor of the redevelopment plan. She believed it is clear that the public wants the right to vote. She pointed out that the interpretation of blight is subjective, and noted that many people cannot afford to make improvements to their property.

Mayor Pro Tempore Hitchcock commented that the discussion occurring now should have taken place before the original vote was taken. There should have been more Council input and an exchange between the residents.

- John Talbot displayed an overhead (filed) and reported that the total acreage in redevelopment areas has increased from 400,000 in 1988 to one million in 1998. The percent of property taxes diverted to redevelopment has increased from less than 1% in 1960 to 10% today. He stated that the California Teachers Association is against redevelopment agencies being formed. He believed corporate welfare was the reason that the consultants added such things in their blight report as the intersection of south Stockton Street and Harney Lane, and a store that is for lease on west Pine Street. He pointed out that there are many examples of facilities that were built and maintained by the people of the community, e.g. Lodi Memorial Hospital, Conrad Building, and the Loel Center.

City Manager Flynn commented that it was his understanding that Mr. Talbot sold redevelopment agency bonds.

Mr. Talbot acknowledged that he is in the municipal bond business and explained that there are 10 to 15 types of bonds in California, one of which is redevelopment agency bonds. In answer to how there can be hundreds of redevelopment districts and none that have gone into bankruptcy, he stated, "Momma never lets the baby go hungry," and explained that the "momma" city takes whatever action is necessary so that its name is not tarnished.

In reply to Mr. Talbot's comment about the California Teachers Association, Mayor Pro Tempore Hitchcock explained that the redevelopment agency law was changed in 1993. Instead of cities getting all the tax increment, they must negotiate with the school and fire districts so that they get a portion of it.

- Clifford Goehring alleged that there is more in the City's debt than Council Member Land reported earlier. There is \$40 to \$45 million being proposed to upgrade the wastewater treatment plant and of the \$109 million Lodi Unified School District bond, approximately \$44 million is allocated to the City of Lodi. In addition to that is the

\$199 million that the redevelopment agency wants to borrow. This totals nearly \$300 million, not including interest, that the residents of Lodi will have to pay in taxes. He likened redevelopment to "Robinhood in reverse." Instead of taking from the rich to give to the poor, it is taking from the poor to give to the rich, i.e. the developers, consultants, etc. In all redevelopment plans there are people, mostly the poor, who are put out of their homes. He cited a June 20, 2002 court case, William Graber versus the City of Upland, captioned "Upland's redevelopment plan is defeated due to improper purpose and insufficient evidence of blight." He stated that the definition of blight is becoming narrower. In summary, Mr. Goehring informed Council that if it comes back with another redevelopment plan, the people will petition again to get an election.

- Marianne Rivera stated that eminent domain is not the issue. The Council is proposing that the redevelopment plan is for the benefit of the public, but the residents of the community are saying that 'people' equal the public. Ms. Rivera bought and restored a 1918 residential building in a bilingual (German and English) neighborhood on the east side of Lodi in 1978. She owns property at 337 and 337 ½ E. Walnut Street. She recalled an experience one of her friends in Sacramento encountered with its redevelopment agency. Behind her property was vacant land and the redevelopment agency built warehouses on it. Prior to this action, she and others appeared before the city council. Their voices were heard, but they were not listened to. She believed the same situation was happening at this meeting and felt that Council's questioning of the speakers was hostile and demeaning. She suggested that in-lieu of the redevelopment plan, the City assist individuals in applying for state and federal grants. In addition she believed that enforcing codes on deadbeat landlords would solve much of the blight conditions on the east side.

Council Member Land reported that from January to April the City had over 300 code enforcement violations inside the project area. Additional staff members have been added to deal with the problem.

Mayor Pro Tempore Hitchcock hoped that if the matter goes to a vote, that whatever the outcome, it is accepted as the will of the people.

Ms. Rivera countered that if the Council wanted to build trust with the people on the east side, it would drop the redevelopment issue.

- Laura Deandreis was strongly in favor of redevelopment. She stated that it is important to look outside the box of the City to find other revenue sources. Generally federal or state grants require matching funds. Tax increment financing provides a revenue source for matching funds. She believed it would be more cost effective to approve staff's recommendation, rather than having an election.
- Chuck Easterling introduced the Project Area Committee members who were present. He explained that they were elected to be the voice of the project area residents and tenants. For over six months public meetings were held and no one in opposition to the redevelopment agency attended any of the meetings. He stated that redevelopment is the financing vehicle needed to improve the older section of the City without increasing taxes. Mr. Easterling stated that he had been contacted by people that signed the petition and wanted to have their name removed because they were not informed properly about what it was about when they signed it. He drew a parallel between the redevelopment project area and a rain forest, explaining that it revitalizes itself from within by the tax increment financing and rejuvenates itself by creating its own revenue.
- Virginia Snyder stated that she trusts the City officials and their integrity. For ten years she, and many other people, have worked to improve the east side. Throughout that time they had the full help and cooperation of Council and staff. She believed that they have lost the war on blight, as the problem is too big. A new approach is needed and the only thing she had heard of that would work is the redevelopment agency.

Mayor Pennino introduced Georgianna Reichelt from Manteca.

- Ms. Reichelt stated that she had purposely declined to state her name and address because the Brown Act allows her that right. She stated that the Mayor violated her rights by announcing her name and address after she specifically stated she did not wish to do so. She extended an invitation to Council to attend meetings of groups opposed to redevelopment so that they could learn the other side of the issue. There is a meeting scheduled in Sacramento in the near future that is being organized by Municipal Officials for Redevelopment Reform. In response to Ms. Hitchcock's earlier comment about not wanting tax dollars to go to the State, Ms. Reichelt suggested that Lodi not apply for State funding, because taxpayers do not want to contribute to a city taking such a position. Even though the law was changed so that schools do not lose out on redevelopment, irrigation and special districts do lose. She stated that many redevelopment agencies are facing bankruptcy or are in serious debt such as Modesto and San Jose. She was opposed to designating certain properties as blighted, as one person's interpretation can vary greatly from another. San Joaquin County is trying to cover costs for all the displaced people caused by the Stockton Redevelopment Agency tearing down hotels. She reported that the most votes that anyone serving on the Project Area Committee received was eighteen and the previous speaker received only one vote. She questioned whom an individual is representing if the only vote they received was their own. She suggested that when the Council received the election results it should have been more concerned about how few participated. In closing, she stated that the Council should either take the matter to a vote of the people or get rid of the redevelopment plan.

Mayor Pro Tempore Hitchcock stated that she had asked her husband to attend one of the meetings organized by the opponents of the redevelopment agency, as it was being held on a night that she had another obligation. He had overheard someone at the meeting say, "redevelopment agencies are very complex and the people aren't going to understand it so we need to scare them."

Ms. Reichelt replied adamantly that no such statement was made at the meeting.

- JoAnne Mounce stated that she lives in the project area and worked with Virginia Snyder on the East Side Improvement Committee for six years. She felt that the clear message being communicated is that thousands of people want to vote on this issue.

At the request of Mayor Pennino, Alex Burnett introduced himself as the Managing Director of Public Financial Management, an independent firm that works on behalf of cities, counties, special districts, and redevelopment agencies throughout the country. He personally worked on \$7 to \$8 billion worth of structuring of debt transactions. When considering debt, the source of funding is looked at, as well as a host of different measures on affordability. One of the first measures of affordability are rates. Also considered are the medians in the general fund, tax per capita, debt as a percentage of general fund revenue, the level of taxes, tax burdens, and ratings. Ratings are an independent measure from third party agencies that ascribe to debt the likelihood of repayment. The following components go into ratings: financial wherewithal, the balance sheet, economics, demographics, management, and legal and security structure underlying debt obligations. Mr. Burnett reported that Lodi has an A+ rating.

In reply to Mayor Pennino, Mr. Burnett confirmed that the financial community sees Lodi as very sound.

In answer to Mayor Pro Tempore Hitchcock, Mr. Burnett reported that there is approximately \$26.7 million of debt outstanding on the general fund.

Council Member Nakanishi stated that he has consistently opposed redevelopment since it began, due to the risk involved. The Council has done a good job of beautifying the City without redevelopment, such as the new parking structure, police building, and Cherokee

Lane. Street lights are being installed and sewer and water lines are being replaced on the east side. Agencies such as Habitat for Humanity and churches are working to make improvements. The redevelopment agency implies a debt vehicle and the administration and City Council that manage it must have a keen business sense. He trusts those now in the position, but they will not be present throughout the life of the plan. He implored the Council to listen to the 4,800 people who do not want the redevelopment plan and recommended that the ordinance be repealed and not brought back.

At the request of Mayor Pro Tempore Hitchcock, Jerry Glenn recalled that he attended the latter part of a meeting at Salem Methodist Church where referendum petitions were being circulated. He heard a gentleman make the comment that "this is a complex issue and all we can do is scare them."

Mayor Pro Tempore Hitchcock believed that the redevelopment plan was a valuable tool for keeping taxes local, and the only way left to improve the east side. She commented, however, that it is a community plan and if the community does not want it, then she does not want it either.

Addressing Council Member Nakanishi's previous comments, Council Member Land noted that as part of his job he spends quite a bit of time on the east side looking for opportunities to reinvest back into the community and he has seen a huge need. In reference to future risk, he had confidence in the electorate to vote for honest and upstanding citizens to serve on the Council.

Council Member Land acknowledged that the City had not done a good job of presenting the redevelopment agency to the community. He would like to see the Project Area Committee continue its work and hold additional public meetings. He hoped that all interested persons would come to the meetings with an open mind and that those in opposition bring alternate solutions for the problems on the east side. He preferred that eminent domain be removed from the plan only for residential property. If no agreement can be arrived at from the public meetings, then he would not be opposed to taking the matter to the voters; however, he feared it would then become a "west side, east side" issue.

Council Member Howard emphasized the importance of being a visionary leader and believed that the redevelopment plan would benefit people for generations. She supported staff's recommendation to remove eminent domain from the plan and bring it back to Council for adoption of the remainder of the policy. She was not in favor of repealing the ordinance and letting the issue die, nor taking the matter to the voters.

In answer to Council inquiries, City Attorney Hays read the following excerpt from his staff report, "This process would basically result in the program regressing to the point of presentation of the ordinance to the Project Area Committee to be moved up the ladder to the Planning Commission and City Council. This process will again provide notices to all property owners as well as opportunities for the public in general to be heard publicly on the plan document." He stated that if the Council chose to call a special election, it could; however, it could not occur until after the public process was completed and another ordinance was brought before Council to consider.

MOTION REGARDING I-1(b):

Council Member Howard made a motion, Hitchcock second, to introduce Ordinance No. 1717 repealing Ordinance No. 1713, which approved and adopted the Redevelopment Plan for the Lodi Redevelopment Project No. 1; and direct staff to begin the process to put in place another Redevelopment Plan ordinance that does not contain the power of eminent domain.

DISCUSSION:

Mayor Pennino expressed his support for the motion and noted that it may eventually go before the voters at some point in the future, possibly in 2004, which would allow citizens, staff, and Council an opportunity to work together on a good plan for the community.

In reply to Council Member Land, Mr. Hays clarified that the Council has two choices according to the Elections Code, i.e., repeal the ordinance entirely, or call an election. If Council chooses to repeal the ordinance, it then has the ability to start the process over, make a significant change in the plan, and then consider an ordinance adopting the amended plan. Once the new ordinance is before Council, nothing prevents the Council from making a determination to place it on the ballot.

VOTE:

The above motion carried by the following vote:

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

Noes: Council Members – Nakanishi

Absent: Council Members – None

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Land, Howard second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

RECESS

At 11:05 p.m., Mayor Pennino called for a recess and the City Council meeting reconvened at 11:20 p.m.

I. REGULAR CALENDAR (Continued)

E-9 “Adopt resolution authorizing the City Manager to approve Contract Change Order for DeBenedetti Park (\$81,500)”

At the request of Mayor Pro Tempore Hitchcock, Parks and Recreation Director Baltz explained that the original contract on the DeBenedetti Park contract contained a 10% contingency, which amounted to \$51,964. The requested change order for \$81,500 was added on to the existing appropriation, rather than drawing from the contingency. Stantec asked that it be allowed to give the City a proposal to do three separate stand alone phases for the project, each of which could move forward based on the City's ability to fund it. The original estimate for the entire project was \$10.5 million. By phasing the project, the cost has risen slightly. Phase one is to get as much dirt out as possible. The change order amount for mass grading is \$38,500 and the addition of another tot lot is \$18,000. Phase two includes park elements on the eastern half of the project. The change order includes \$25,000 for park construction. Phase three includes park elements on the western half of the project.

In answer to Council Member Howard, Jordan Postlewait, Landscape Architect and Project Manager for Stantec Inc., explained that by phasing the project it will expedite opening at least half of the project. Two major baseball fields will be part of phase two. The phased project also allows them to get an earthwork contract out earlier so that dirt can be removed from the area, while concurrently constructing phase one.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Howard second, unanimously adopted Resolution No. 2002-188 authorizing the City Manager to approve a Contract Change Order for DeBenedetti Park Design Work for \$81,500, which would result in a total revised design appropriation of \$626,500.

I-2 “Adopt resolution authorizing the City Manager to amend the existing contract between the City of Lodi and Calpine Energy Services, L.P. and to execute the appropriate documents to complete the amendment”

Electric Utility Director Vallow introduced the team responsible for putting together this transaction: Pat Patrick, Sandra McDonald from McDonald Partners, Alex Burnett and Natalie Tran from Public Financial Management, Mel Grandi, Vicky McAthie, and George Wolf from Salomon Smith Barney. Not present was Gene Carron, bond counsel from Orrick. Mr. Vallow reported that Sandra McDonald was hired several months ago to do modeling and resource planning and served as the lead negotiator for this contract amendment.

Mr. Vallow stated that when an industry goes into crisis it stops managing to the budget and starts managing to risk, which is what the industry did in 2000-01 and a portion of 2002. Now that they are back to relative calm, they have returned to managing to the budget, which entails managing the cost centers and looking at operating expenses, prices, the way things are staged, contracts, fuel purchases, and the risk management program for fuel. The Utility set out last year to re-negotiate contracts that were entered into as risk management tools. Currently energy prices and interest rates are at record lows.

In answer to Council inquiries, Mr. Vallow reported that the Utility's Northern California Power Agency (NCPA) debt is down from \$210 million to \$130 million. He stated that the Utility is dangerously low on cash and anticipated needing a base rate increase of 2.5% to 5%. The Utility is paying more than the market on the current Calpine contract. He estimated that the contract amendment would result in a savings of 12% to 20%, depending on the effectiveness of replacement power contracts. In reference to the 2002 taxable Certificates of Participation Series B, the debt is set to be paid back at \$1.1 million on July 1, 2002, \$3.8 million on July 1, 2003, \$2.8 million on July 1, 2004, and \$1.8 million in the final year. The Utility will be cutting approximately 40% out of the Public Benefits Program on a projected basis for the next three years, which will amount to \$1 million. Mr. Vallow stated that over ten years, the Utility is spending \$14 million a year on the Calpine contract, and the amendment will reduce its cost by \$2 million. Calpine was downgraded and their local bonds are now trading from 12% to 15%. Mr. Vallow explained that the amendment is being proposed because Calpine needs the cash and the Utility needs out of the contract.

Sandra McDonald clarified that the issue is that the City has bought more energy at \$65 per megawatt hour than it can use. During peak periods the market price is now at \$35 to \$38 per megawatt hour and off peak it is much lower. The off market position on this contract is approximately \$600,000 per month. Lodi's load is expected to grow over the next several years, and as it happens, there will be less of the surplus to sell at this loss. The off market cash flows are greater in the near term. Ms. McDonald explained that it is those dollars that they have taken the present value of and agreed with Calpine on a number of \$42 million.

In reply to questions posed by Council, Ms. McDonald reported that if the amendment is executed and the bonds are sold for the purchase price, the savings are on the order of \$6 to \$8.5 million depending on the structure of the debt; on a percentage term that is a present value savings. She stated that Lodi is not prepared to lock in a new nine-year contract at the levels today; however, through NCPA it has assets that it is currently paying for that are underutilized. Regarding the suggestion for short-term energy replacement contracts, Ms. McDonald stated that there would be very few parties to deal with, which would result in higher prices.

Mayor Pennino asked what the next step in the process is and when Council will see the financial models.

Mr. Vallow stated that if they do not have the financing completed by December 1, the agreement defaults to a flat payment stream of \$535,000 per month. He summarized that the Utility has a contract at \$65 a megawatt hour, which costs \$14.4 million a year. They are proposing (by the contract amendment) to turn that into a cash flow stream that will be \$4.5 million a year on average, plus some power purchases or new generation.

City Manager Flynn reported that auditors are currently conducting a review, and he may be returning to Council in two weeks to ask for a rate increase.

In answer to Mayor Pro Tempore Hitchcock, Mr. Burnett stated that this is a business deal, which makes a lot of sense. As a cash flow matter this is a liability that exists on the Utility. It will now become direct debt by virtue of capitalizing on that debt. He did not believe there was a business risk in the proposed amendment, but noted that it is important to continue to look at the Utility, credit factors, finances, and underlying economics. Upon further questioning, he reiterated that he is comfortable that the contract amendment is a very good deal and can be financed. It does increase the debt burden. Cash on hand and resources are something that needs to be looked at. Regardless of this business deal, these issues need to be considered in context of bringing additional projects on line.

In reply to Mayor Pennino, Finance Director McAthie stated that from a business standpoint, the Utility needs to bring the cost of its power down. Staff will need to consider what that does to the cash flow and to the rates. She could not comment on the figures because, until the deal is structured, she had not yet seen them.

MOTION / VOTE:

Council Member Howard made a motion, Land second, to adopt Resolution No. 2002-189 authorizing the City Manager to amend the existing contract between the City of Lodi and Calpine Energy Services, L.P. and to execute the appropriate documents to complete the amendment.

DISCUSSION:

Mayor Pro Tempore Hitchcock expressed concern about the effect this will have on the Electric Utility in terms of debt, future financing, and other opportunities.

Mr. Vallow stated that he was comfortable with the numbers he has seen related to the contract amendment.

VOTE:

The above motion carried by a unanimous vote.

J. ORDINANCES

None.

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

- Council Member Howard thanked the Lodi Arts Commission for hosting the Lunch Time Live series this summer.
- Council Member Nakanishi announced that an observance of the September 11 event would be held next week at the Veterans Plaza.
- Council Member Land commented on the following:
 - Mel Grandi was recognized by General Mills for outstanding service.
 - A letter was received by the Community Development Department from Tony Saca of the School District specifically thanking Phil Schrock, John Flanagan, Nancy Evans, and Debra Opendike for their exceptional work.
 - The Lodi Woodbridge Rose Society sent a request to designate the rose as Lodi's official flower.
 - He recommended that the City Manager bring a proposal back to Council on funding a public information officer for the City.
- Mayor Pro Tempore Hitchcock thanked everyone who attended tonight's meeting and participated in the discussion. She asked the City Manager for an update on the greenbelt issue.

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City Manager Flynn replied that he would forward to Council the County's recommendation on a countywide greenbelt program.

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

- City Manager Flynn announced the following birthdays: Emily Howard, September 25; Charlene Lange, September 29; and Vicky McAthie, September 30. In addition he reported the following:
 - The School District is paying \$3 more per hour for lifeguards and \$6 more per hour for senior lifeguards than what the City's hourly pay rate is for these positions, which is causing Hutchins Street Square to lose its lifeguards. He expressed concern about wage competition.
 - He was notified today that Robin Knowlton submitted her resignation as the Arts Coordinator. He commented that she had been on the job less than two weeks and felt that the job was overwhelming.
 - A serious accident occurred today at the intersection of Turner Road and Sacramento Street, which resulted in two deaths.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:45 a.m., Thursday, September 5, 2002.

ATTEST:



Susan J. Blackston
City Clerk