

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, FEBRUARY 4, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of February 4, 2004, was called to order by Mayor Hansen at 6:03 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

URGENCY CLOSED SESSION ITEMS ADDED TO THE AGENDA

Note: Pursuant to Government Code §54954.2(b)2, the legislative body may take action on items of business not appearing on the posted agenda upon a determination by a two-thirds vote that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted. Prior to discussion, Mayor Hansen publicly identified the items below:

- Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously determined that there was a need to take immediate action on the above items and that the need for action came to the attention of the City subsequent to the February 4, 2004, agenda being posted.

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Quesada v. City of Lodi et al., Superior Court of California, County of San Joaquin, Stockton Branch, Case No. CV 016631
- c) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- d) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases

C-3 ADJOURN TO CLOSED SESSION

At 6:04 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:34 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:43 p.m., Mayor Hansen reconvened the City Council meeting, and Interim City Attorney Schwabauer disclosed the following actions:

In regard to Item C-2 (a), Council provided direction in regard to responding to the February 6 order.

In regard to Item C-2 (b), Council authorized settlement authority.

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

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

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of February 4, 2004, was called to order by Mayor Hansen at 7:43 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Bill Sherrill, Lodi Police Chaplains.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Boy Scout Troop 291.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Mr. Art Raab made introductory comments regarding the Breakthrough Project's "Celebrate Diversity Essay Contest 2003," following which Mayor Hansen presented Certificates of Recognition to the following winners:

- | | |
|-----------------------|-----------------------------------------------------------------------------|
| 1 st Place | Dominique Rodriguez
<i>8th Grade – Morada Middle School</i> |
| 2 nd Place | Marissa Nall
<i>7th Grade – Houston Middle School</i> |
| 3 rd Place | Andreana Rocha
<i>8th Grade – Woodbridge Middle School</i> |
| Individual | Matt Bacon
<i>8th Grade – Elkhorn Middle School</i> |
| Individual | Martin McMillan
<i>7th Grade – Delta Sierra Middle School</i> |
| Individual | Dinh Le
<i>8th Grade – Lodi Middle School</i> |

D-3 (b) Pamela Hayn, Executive Director, and Peter Westbrook, President of the Downtown Lodi Business Partnership, thanked Chuck Higgs for his assistance with the 2003 Parade of Lights event and recognized the following sponsors:

Bob Wheeler, General Mills
Gary and Diana Bean, Every Detail
Darrell Drummond, Family Financial Associates

Awards were presented to the following first-place category winners of the 2003 Parade of Lights:

- Truck and float category – Lehnertz Racing;
- New and antique auto category – Geweke Paint and Auto Body Shop;
- Motorcycle golf cart category – Tokay High School campus security;
- School band marching group category – Tokay High School Royal Bengal Regiment;
- Walking group/dance troop category – Girl Scout Troops 802 and 1298;
- Truck non-float category – American Medical Response
- Equestrian unit category – Cierra Lucas-State Queen California Horsemen Association;
- Best of show – Dance Dynamics

Mr. Westbrook presented the City with a Parade of Lights perpetual trophy.

D-3 (c) San Joaquin Delta College Board Member Maria Elena Serna gave a report on the history of Delta College. President Dr. Raul Rodriguez described the March 2 ballot Measure L – San Joaquin Delta Community College District School \$250 million School Bond Election. Student Trustee Angela McDonald provided a student perspective on the need for Measure L. Delta College representatives asked for support of the Measure and individual Council Member endorsement.

Mayor Hansen and Council Member Hitchcock offered their individual endorsement of Measure L.

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 \$6,954,736.21.
- E-2 The minutes of December 17, 2003 (Regular Meeting), January 7, 2004 (Regular Meeting), and January 16, 2004 (Special Meeting) were approved as written.
- E-3 Approved the specifications and authorized advertisement for bids for 384 solid-state watt-hour meters.
- E-4 Approved the specifications and authorized advertisement for bids for janitorial services for City facilities.
- E-5 Approved the specifications and authorized advertisement for bids for a pre-cast concrete Fiber Optic Control building.
- E-6 Authorized return of the remaining donated Breakaway Sports items to Dave Vaccarezza, in accordance with provisions of the amended Letter of Understanding dated January 24, 2003.
- E-7 "Accept improvements under contract for Police Department Facility, 215 West Elm Street; and notification of Contract Change Orders" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar**.
- E-8 Adopted Resolution No. 2004-18 accepting a portion of the improvements in Century Meadows Two, Unit No. 4, Tract No. 3272, and adopted Resolution No. 2004-19 amending Section 2 of Traffic Resolution 97-148 approving the installation of a stop sign at Crown Place and Lexington Drive and yield signs on Victoria Drive at Crown Place.
- E-9 Adopted Resolution No. 2004-20 approving the application to apply for re-certification grant funds to operate the Lodi LOOK after school program at Washington Elementary School under the After School Education and Safety Program through the California Department of Education.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Rich Edwards, owner of Wind Walker Security, stated that he had expressed an interest in bidding on a three-year security contract with the City. Transportation Manager, Tiffany Fink, had assured him that he would be notified; however, Mr. Edwards never received any information about it. Mr. Edwards felt that he deserved a fair chance to bid for the contract and asked Council to look into the matter.

- Gary Wiman, Construction Project Manager, presented the new police building dedication plaque to Mayor Hansen, Police Chief Adams, and Captain Manetti.

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, Beckman second, unanimously directed the City Clerk to post for the following expiring terms:

East Side Improvement Committee

Allan Levy	Term to expire March 1, 2004
Joseph Spinelli	Term to expire March 1, 2004
Sunil L. Yadav	Term to expire March 1, 2004

- b) The City Council, on motion of Council Member Hitchcock, Hansen second, unanimously made the following appointment:

Senior Citizens Commission

Terri Whitmire	Term to expire December 31, 2007
----------------	----------------------------------

H-4 Miscellaneous – None

I. REGULAR CALENDAR

E-7 “Accept improvements under contract for Police Department Facility, 215 West Elm Street; and notification of Contract Change Orders”

Council Member Hitchcock asked whether there was any recourse to the architect for change order 28, i.e. \$27,000 for additional cost to install door frames out of sequence due to delays in submittal responses from the architect.

Public Works Director Prima replied that the architect has been put on notice about this and other issues regarding the cost of the project and their billings. Staff has not closed out the architect’s contract yet.

Gary Wiman, Construction Project Manager, explained that there were 300 doors in the police building. Because there was such a delay in getting responses back from the architect on the door frame submittal, the contractor continued the work and had to hold back sheet rock from the door frames. This meant they had to attach them in a different way than was originally bid, which resulted in added labor cost.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously accepted improvements under the “Police Department Facility, 215 West Elm Street” contract, and received notification of Contract Change Orders.

RECESS

At 8:35 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 8:42 p.m.

I. REGULAR CALENDAR (Continued)

I-1 "Discussion and action regarding Phase II budget adjustments"

City Manager Flynn reported that meetings have been scheduled with local service clubs, at which presentations will be made regarding the City's budget. In the near future, staff will be meeting with the first Budget Advisory Committee. The draft citywide public survey will be e-mailed to Council Members for review and input prior to it being finalized. He explained that the Phase II recommendations being presented tonight are for budget reductions, but not necessarily a reduction in services within the City. Additional budget reduction recommendations will be presented to Council at special meetings on February 10 and 17.

Deputy City Manager Keeter recalled that on December 17 Council approved Phase I budget reductions over the course of 2003-04/2004-05, which totaled \$224,000.

Council Member Hitchcock had hoped that a shared decision-making process would be undertaken, in which an independent budget advisory committee would be provided assistance from staff, but report directly to Council with its recommendations. Council could then make the choice of whether to approve staff recommendations, the independent advisory committee recommendations, or a combination of both.

Council Member Howard and Mayor Pro Tempore Beckman expressed support for the process that the City Manager had developed.

Mayor Hansen stated that he would like a representative on the budget advisory committee who lives and/or owns a business on the east side. Mr. Hansen commented that he was open to the concept of the advisory committee providing its perspective directly to the Council.

Ms. Keeter referred to the staff report document entitled *General Fund – The Challenge* (filed). She requested that Council approve the budget adjustments for the balance of this fiscal year and 2004-05. The following information was included in her presentation:

- Budget survey – A cost of \$6,000 needs to be deducted from the General Fund to account for 20% of the survey cost that was to be shared between funds, as was authorized previously by Council.
- Animal shelter part-time staff – Due to operational issues at the shelter, additional part-time staff is needed to serve the public adequately; \$9,000 has been budgeted for the balance of this fiscal year and \$18,600 has been budgeted for 2004-05.
- Vehicle License Fee (VLF) backfill loan to the State – The backfill gap of \$550,000 has been promised by the State to be repaid by August 2006, which is the justification for staff identifying this as a "loan."
- Hiring freeze – In addition to the 20 vacancies originally accounted for in the budget, eight more vacancies have occurred; using an average of \$65,000 per employee, this equates to \$506,684 that can be put back into the General Fund as savings.

Mayor Hansen commented that unless the budget situation becomes dire he wanted to make sure that public safety remained fully staffed.

- Fund balance adjustment – Staff recommends that \$894,516 be taken out of the General Fund in the balance of this fiscal year and in 2004-05 to rebuild reserves; if this is done, by the end of 2004-05 the City reserves should be approximately 15%.
- Possible impact (VLF and property tax) – \$1 million has been budgeted as a placeholder due to anticipated State takeaway.

In answer to questions posed by Council Member Hitchcock, Ms. Keeter explained that the animal shelter currently has three full-time and one part-time staff members. Additional part-time staff is needed to be able to keep the shelter open to the public during regular business hours. Mr. Flynn noted that the part-time staff is needed on an interim basis, due to the temporary absence of one of the full-time shelter employees. Police Chief Adams reported that the Police Department currently has three vacant police officer positions and one vacant dispatcher position. Two probationary officers who were released created two of the vacancies. Recruitment to fill the vacancies is now underway. Fire Chief Pretz reported that the Fire Department was authorized to hire six firefighters. Three have been hired and background checks are currently underway for an additional three firefighters. Finance Director McAthie explained that the fund balance adjustment of \$894,516 is necessary because it is \$1.8 million short of the 15% that was projected. Some of the projected revenue did not come in as expected, investments were lower than had been anticipated, and there were additional expenses. Mr. Flynn stated that \$1 million was added into the City's liability account.

Ms. Keeter provided the following information related to the topic of *Additional Budget Adjustment Options*:

- City Clerk – Reduced professional services by \$8,000 due to the elimination of the Fortis software maintenance contract.
- Community Center – The new director has recommended reductions totaling \$15,100 in 2004-05.

In reply to Council Member Hitchcock, Community Center Director Silvestre explained that the reduction in sublet service contracts amounts to only 5%, and necessary repairs would continue to be made to the facility.

In response to Council Member Land, Parks and Recreation Director Goehring noted that the staff report had an incorrect entry and should have indicated that public restrooms would be taken out of service at the end of the workday if there were no sporting events occurring in the evening. Park Superintendent Steve Dutra explained that there would be a cost savings due to less supplies being used and it would eliminate the need for park attendants to lock up the restrooms after hours.

In reference to suspending administration function on the parking citation program, Finance Director McAthie explained that parking tickets come to the Finance Department, payment is collected, ticket information is entered into a program, and it is then transmitted to Enforcement Technology, an outside vendor. Much of this work occurs on overtime. Ms. McAthie recommended that this work be done by Enforcement Technology to save overtime costs.

- Fire Department reduction in overtime – Fire Chief Pretz has recommended a \$35,000 reduction in overtime for 2004-05, which will be accomplished by changes in scheduling for coverage when firefighters attend training.
- Human Resources – suspension of assessment centers for promotional exams, the annual health fair, safety awards, float fest, and hard copy printing of the City's newsletter will result in a \$19,900 savings.
- Library – The Library Foundation has agreed to fund \$1,000 of the internet access program.

In answer to questions posed by Council Member Hitchcock, Parks and Recreation Director Goehring explained that by suspending the concession services operated by the Boosters of Boys and Girls Sports (BOBS) at the Grape Pavilion during basketball season, it would eliminate the need for janitorial work and save approximately \$2,000. He stated that the indoor soccer project was too costly. The City has paid nearly \$8,000 to store equipment in Galt. He acknowledged that the City could have sold the donated equipment;

however, Mr. Goehring did not feel comfortable doing so. Park Superintendent Steve Dutra suggested removing the pay phone at Lodi Lake for a savings of \$600. In addition, he recommended decreasing edging to monthly, conducting tree service on an emergency basis only, and using herbicides instead of manual weed control. Parks and Recreation Department staff recommend operating the concessions at Lodi Lake as a revenue-generating source. Deferring the purchase of kayaks and canoes was also recommended, as well as eliminating 400 hours designated for an equipment mechanic intern. Mr. Dutra explained that these recommendations were for an 18-month period of time. They are not suggested to be permanent reductions.

Council Members Hitchcock, Howard, and Mayor Hansen expressed support for keeping the pay phone at Lodi Lake for emergency purposes. Council Member Howard recommended that staff look into the cost of emergency use only phones and suggested, for a revenue opportunity, that a phone near the lifeguard be available on a pay per use basis.

Mayor Hansen and Council Member Hitchcock preferred that the BOBS concession at the Grape Pavilion not be suspended because proceeds help fund recreational programs.

- Police Department – A reduction in supplies and overtime is recommended for a \$36,000 savings in 2004-05.
- Public Works – A reduction in the frequency of median maintenance to monthly, and janitorial services from five to three times a week, would save a total of \$51,000.

Finance Director McAthie recommended that an audit of property tax receipts be done by Hinderliter del Lamas and Associates (HDL). This company currently audits the City's sales tax receipts. Ms. McAthie stated that she would return to Council for approval once the cost for the service is known.

MOTION/ VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously approved the Phase II budget adjustments as follows, with the exception of 1) suspending concession services at the Grape Pavilion for one year and 2) removing the pay phone in front of the Discovery Center (as shown in ~~strikeout~~):

	6 mo. 2004	2004-05	Total 18 mo	Value of GF positions
<i>(Phase II)</i>				
PERS increase	51,946	189,940	241,886	3.72
Medical rate increase	(59,378)	(352,700)	(412,078)	(6.34)
General Liability	100,000	-	100,000	1.54
Additional VTO	(92,840)		(92,840)	(1.43)
Golden Handshake	200,000	400,000	600,000	9.23
Budget survey - GF share of \$30,000	6,000		6,000	0.09
Animal shelter part time staff	9,000	18,600	27,600	0.42
Unrestricted Capital	(1,116,000)	(1,116,000)	(2,232,000)	(34.34)
VLF backfill "loan" to be repaid by State in 2006-07	555,000		555,000	8.54
Hire Freeze additional	(506,684)		(506,684)	(7.80)
Fund Balance Adjustment	894,516	894,516	1,789,032	27.52
<i>Total of Phase II needed budget Adjustments</i>	41,560	34,356	75,916	1

Continued February 4, 2004

(Additional Budget Adjustment Options)

Administration

Reduce supplies	(500)	(500)	(0.01)
Reduce business expense	(1,000)	(1,000)	(0.02)

City Clerk

Reduce business expense	(3,000)	(3,000)	(0.05)
Reduce Conference expense	(2,000)	(2,000)	(0.03)
Professional services reduction (8,000)		(8,000)	(0.12)

Community Center

Reduce repairs to buildings	(3,000)	(3,000)	(0.05)
Reduce sublet service contracts	(3,600)	(3,600)	(0.06)
Reduce postage account	(5,500)	(5,500)	(0.08)
Reduce office supplies	(1,000)	(1,000)	(0.02)
Reduce professional services -	(2,000)	(2,000)	(0.03)

Performing Art Center

Community Development

Reduce conference expense (10,000)	(10,000)	(20,000)	(0.31)
Reduce Training expense (500)	(500)	(1,000)	(0.02)

Finance

Suspend Administration function on Parking Citation program	(9,500)	(9,500)	(0.15)
Suspend JDE training	(15,000)	(15,000)	(0.23)
Suspend executive report publication (5,000)	(5,000)		(0.08)
Use remanufactured toner cartridges rather than new	(500)	(500)	(0.01)

Fire

Reduce Overtime	(35,000)	(35,000)	(0.54)
-----------------	----------	----------	--------

Human Resources

Suspend assessment centers for promotional exams	(10,000)	(10,000)	(0.15)
Suspend annual health fair/safety awards/float fest	(8,000)	(8,000)	(0.12)
Suspend printing of newsletter	(1,900)	(1,900)	(0.03)

Library

Internet access	(1,000)	(1,000)	(0.02)
-----------------	---------	---------	--------

Parks

Don't build donated indoor soccer project	(143,960)	(143,960)	(2.21)
Take public restrooms out of service at end of work day if no sporting program (1 yr)	(3,000)	(3,000)	(0.05)
Suspend concession services at Grape Pavilion (1 yr)	(2,000)	(2,000)	(0.03)
Remove pay phone in front of Discovery Center	(600)	(600)	(0.01)
Edge monthly (1 yr)	(500)	(500)	(0.01)
Contract tree services on emergency levels only (1 yr)	(5,000)	(5,000)	(0.08)
Discontinue manual weed control (1 yr)	(2,000)	(2,000)	(0.03)
Operate in house food concessions/vending machines	(5,000)	(5,000)	(0.08)
Defer purchase of any new non-motorized equipment (1 yr)	(2,000)	(2,000)	(0.03)
Defer hiring of equipment mechanic intern (1 Yr)	(4,500)	(4,500)	(0.07)

Recreation				
Reduce supplies		(6,000)	(6,000)	(0.09)
Reduce Commission supplies		(3,000)	(3,000)	(0.05)
Police				
Supplies reduction		(15,000)	(15,000)	(0.23)
Overtime reduction		(21,000)	(21,000)	(0.32)
Public Works				
Reduce frequency of maintenance on medians to monthly (1 yr)		(25,000)	(25,000)	(0.38)
Reduce janitorial service to 3 times per week		(26,000)	(26,000)	(0.40)
Budget supplies Reduction		(151,461)	(151,461)	(2.33)
Travel Reduction	(13,831)	(107,157)	(120,988)	(1.86)
Business expenditure reduction	(3,256)	(25,552)	(28,808)	(0.44)
Audit property tax receipts				
Recycle more				
Centralize Printing				
<hr/>				
<i>Total Additional Budget</i>				
<i>Adjustment Options</i>	(35,587)	(664,130)	(669,717)	(11)
Total Phase II adjustments	5,973	(629,774)	(623,801)	(9.5)

I-2 "Updates from Mayor Larry Hansen regarding the following issues: 1) Barger & Wolen audit of Envision Law Group's billings; 2) status of recruitment process for new City Attorney; 3) progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation; and 4) legal proceedings relative to the Environmental Abatement Program litigation"

Mayor Hansen reported that he met with the auditors from Barger & Wolen today. They are finding excessive interoffice conferencing, extensive time billed on individual tasks, and significant time billed by senior lawyers for legal research. In addition there were billings for administrative tasks such as calendaring, duplicate billings, vague and ambiguous billing descriptions, and billing for non-legal services. Barger & Wolen has been provided with invoices from November 2003 through January 2004. Auditing options will be brought to Council for consideration in the future. Mayor Hansen stated that he and staff will be meeting next week with the City's insurance company to ascertain whether it has an interest in participating in the audit and covering some, if not all, of the cost.

In reference to the status of the recruitment for a new city attorney, Mayor Hansen reported that advertising for the position had been published. Human Resources Director Narloch has been handling the matter thus far and will provide an opportunity for Council input related to the upcoming selection process.

Council Member Hitchcock asked that Council be provided with a copy of the advertisement for the position of city attorney.

Mayor Hansen stated that he found a model to use for the Request for Information to solicit special counsel to represent the City of Lodi in its Environmental Abatement Program litigation. He hoped to present a draft to Council for consideration by its next meeting.

In reference to legal proceedings relative to the Environmental Abatement Program litigation, Mayor Hansen noted that Barger & Wolen have been retained and continue to conduct the audit of Envision Law Group's billings. They have arrived at preliminary conclusions. The City has obtained possession of all of the hard copy records from Envision Law Group. Electronic records have also been obtained. The City was granted

additional time from Judge Damrell to respond to his questions. Briefs are being prepared for February 6 and 12. The City has stayed two appellate matters in the Third District Court of Appeals, as well as an appeal in the Ninth Circuit Federal Court. A notice of appeal was filed to protect the City until decisions are made. Today the judge granted a 60-day extension regarding payments to prior legal counsel. There are pending evaluations in the San Francisco Superior Court.

Interim City Attorney Schwabauer reported that the order that was entered today was originally requested to be a 60-day tolling (i.e. suspension). The court entered an indefinite stay. Mr. Schwabauer explained that the motion before the court was to intervene in the action, become a party to the action, and force direct payment from USF&G to Envision Law Group and then to undo a stipulation that he had already entered for USF&G to suspend payments for a 60-day period. Both were denied and the stay that he initially requested for 60 days is now an open stay and will be subject to the City's ability to come in for bills after January 13. The court ordered the City to meet and confer with Envision Law Group to ascertain if any of the billing disputes could be resolved.

Council Member Land asked whether other subcontractors were involved.

Mr. Schwabauer replied that the motion was only on behalf of Envision Law Group. Envision pleaded the case on behalf of its subcontractors as well, which was part of the court's concern. The court wants the City to address the question of whether or not there are third-party vendors who have no stake in any dispute between the City and Envision.

Council Member Land emphasized the need to protect the documents at the depository, and to retain and secure all electronic information. He suggested that a log be used to track anyone who goes into the records depository.

In response, Mr. Schwabauer reported that he personally went to Envision Law Group's office in Lafayette to secure the release of the documents and oversee their delivery to Lodi. Mr. Schwabauer was unsure whether he had all of the electronic documents and noted that John Meyer of Envision had indicated that he would be providing him with a hard drive. The records depository has an alarm service, pass keys, and magnetic locks for security. It remains locked unless occupied by staff. The City has consulted with the State Department of Toxic Substance Control (DTSC) to ensure that it is meeting its obligations to have a public depository. It is believed that the obligation is met via the library and to the extent that records are made available on a request basis.

Council Member Land asked the City Manager to improve the map on the City's Web page that shows the contamination site, so that streets can be identified.

City Manager Flynn reported that the City was informed by an attorney representing the owner of the old Sak's building (i.e. the records depository) that it will cost \$133 a day to continue renting the building. Staff intends to move the records out of the building by next week.

Council Member Hitchcock asked that Council be provided with a copy of the February 28 agreed order in the Hartford action.

Council Member Howard asked from what fund the ancillary costs are being drawn. She noted that some actions were taken by Council in the hope of trying to gain cost savings, but recently new costs, such as moving large amounts of documents, etc., have been added and Council should not lose sight of how this will add up over time. She recommended that the City begin to budget for these costs.

Mayor Hansen and Council Member Hitchcock noted that defense costs are paid by the City's insurance.

Council Member Hitchcock asked that Council receive an itemization of related expenses with associated funding sources on a monthly basis.

MOTION / VOTE:

There was no Council action necessary on this item.

- I-3 "Adopt resolution appropriating funds to the City Attorney Operating Account for professional services rendered by Kronick Moskowitz Tiedemann & Girard for serving in the capacity of Deputy City Attorney (\$48,000)"

City Manager Flynn explained that this item is a recommendation by staff to set aside money in order to pay Kronick Moskowitz Tiedemann & Girard (KMTG) for assistance to the Interim City Attorney. The amount of \$48,000 is equal to six months salary for the deputy city attorney position. Mr. Flynn reported that he was in receipt of an invoice from KMTG in the amount of \$3,700 for services rendered last month.

Interim City Attorney Schwabauer anticipated that the amount being requested would be adequate to absorb the small amount of work referred to KMTG and to secure additional temporary staffing to handle administrative functions related to the large amount of paperwork that is being generated and received. Mr. Schwabauer clarified that he was asking for money to pay the bills as they come due, not for a \$48,000 contract.

Council Member Howard favored separately allocating a specific dollar amount for the services of clerical personnel.

Mr. Flynn stated that staff should know by spring whether or not there is a need to recommend an additional position for the City Attorney's Office.

Council Member Hitchcock asked if the City could seek recovery from USF&G for the services Mr. Schwabauer and his secretary are performing relative to the Environmental Abatement Program litigation, to which Mr. Schwabauer answered in the affirmative.

Council Member Land pointed out that the total hourly rate amounts to \$350 to \$400 an hour, when an attorney from KMTG and the Interim City Attorney are being utilized simultaneously towards the Environmental Abatement Program litigation.

Finance Director McAthie noted that she had requested that KMTG separate its billings to the City between general municipal related work and that of the Environmental Abatement Program litigation. She clarified that the \$48,000 request is just to cover the portion of KMTG's work that would affect the General Fund.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Hansen second, unanimously adopted Resolution No. 2004-21 appropriating funds in the amount of \$48,000 to the City Attorney Operating Account for professional services rendered by KMTG for performing the tasks of the deputy city attorney position.

- I-4 "Discussion and direction regarding adjusting water and wastewater rates" was ***pulled from the agenda.***

- I-5 "Introduce ordinance repealing Lodi Municipal Code Section 13.04.130 and adopting new section establishing low-income discounts for water, sewer, and refuse services" was ***pulled from the agenda.***

J. ORDINANCES

None.

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

- Mayor Pro Tempore Beckman reported that, following a lengthy discussion, the Parks and Recreation Commission recently voted 2-2 regarding what kind of events should take place at City parks. He asked that the topic of a public park policy be placed on a future City Council agenda.

City Manager Flynn indicated that staff could prepare a draft to take to the Parks and Recreation Commission for its input, prior to bringing the matter before Council.

Council Member Hitchcock suggested that a Mayor's Task Force be formed to include members of the Friends of Lodi Lake, representatives of the Parks and Recreation Commission, and interested citizens, to examine the issue and discuss it at public meetings prior to bringing a recommendation to Council.

Mayor Hansen replied that he would explore the concept of a Mayor's Task Force and report back to Council.

Deputy City Manager Keeter noted that the topic of whether the community prefers that Lodi Lake be a passive or active park, was included in the citywide public survey. She reported that the survey is now in draft form and will be forwarded to Council for input. Immediate feedback will be needed, as the goal is to send the postcard notices out by the middle of next week.

- Council Member Land reported that two members of the Greenbelt Task Force called him and asked when the meetings are going to be scheduled.

Council Member Hitchcock replied that she had met with Community Development Director Bartlam to develop an agenda for the first meeting, which is tentatively scheduled for March 9.

- Mayor Hansen announced that at a recent meeting of the American Public Power Association in Washington, D.C. he was appointed to the Policy Committee for a three-year term. Within the next two to three weeks, a critical decision will be made pertaining to the issue of a federal control area or a sub-control area. Mr. Hansen noted that he has attended four meetings with Congressman Pombo and his staff related to this matter and they have been very accommodating.

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

- City Manager Flynn announced that his birthday is February 17 and Police Chief Adam's birthday is February 27.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:15 p.m.

ATTEST:

Susan J. Blackston
City Clerk