

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 18, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of August 18, 2004, was called to order by Mayor Hansen at 6:04 p.m.

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

Absent: Council Members – None

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

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; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- d) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- e) Actual litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM
- f) Actual litigation: Government Code §54956.9(a); one case; Lehman Brothers Inc., v. City of Lodi and Lodi Financing Corporation, United States District Court, Eastern District of California Case No. CIV-S-04-0850 FCD/JFM
- g) Actual litigation: Government Code §54956.9(a); one case; Fireman's Fund Insurance Company v. City of Lodi, et al., United States District Court, Eastern District of California Case No. CIV-S-98-1489 FCD JFM
- h) Prospective sale of real property located adjacent to 2028 Edgewood Drive (APN #039-10-18); negotiating parties are City of Lodi and existing owner, Steve Kikuchi, and prospective buyer Bruce Sasaki; Government Code §54956.8

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 7:00 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:09 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Items C-2 (a) through (g), no reportable action was taken in closed session.

In regard to Item C-2 (h), negotiating authority was sought and obtained.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of August 18, 2004, was called to order by Mayor Hansen at 7:09 p.m.

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

Absent: Council Members – None

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

B. INVOCATION

The invocation was given by Pastor Chris Chavez, Heartland Community Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Larry Tolby, representing the California Water Environment Association, presented its 2004 Presidents Special Recognition Award to T. Brett Moroz, Chief Wastewater Treatment Plant Operator.

E. CONSENT CALENDAR

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

E-1 Claims were approved in the amount of \$6,058,793.46.

E-2 The minutes of July 6, 2004 (Special Meeting), July 13, 2004 (Shirtsleeve Session), July 13, 2004 (Special Meeting), August 10, 2004 (Shirtsleeve Session), and August 10, 2004 (Special Meeting) were approved as written.

E-3 Received report of the sale of scrap metal.

E-4 Approved the plans and specifications and authorized advertisement for bids for Hale Park Playground Improvements, 209 East Locust Street.

E-5 “Adopt resolution approving the plans and specifications, authorizing advertisement for bids for Elm Street Storm Drain, Lee Avenue to Hutchins Street, and authorizing the City Manager to award or reject the contract up to \$100,000 and appropriate funds” was ***pulled from the agenda pursuant to staff’s request.***

E-6 Adopted Resolution No. 2004-160 approving the specifications and authorizing advertisement for bids for power utility conduit and fittings and further authorizing the City Manager to award or reject bids in an aggregate amount up to \$50,000 as required during fiscal year 2004-05.

E-7 Adopted Resolution No. 2004-161 awarding the purchase of polemount and padmount transformers in the amount of \$63,522.95 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:

Polemounts

14 ea. 50kVA	Wesco Distribution, San Leandro	\$10,966.80
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Padmounts

5 ea. 37.5 kVA	Howard Industries, Laurel, MS	\$ 5,538.35
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15 ea. 50kVA	Western States Electric, Portland, OR	\$16,873.65
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10 ea. 75kVA	Western States Electric	
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\$14,244.55

1 ea. 167kVA	Western States Electric	\$ 2,306.93
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2 ea. 112.5kVA 3Ø	Ermco/Hees Enterprises, Astoria, OR	\$ 6,872.30
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1 ea. 500kVA 3Ø	Ermco/Hees Enterprises	<u>\$ 6,720.37</u>
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\$63,522.95

- E-8 Adopted Resolution No. 2004-162 authorizing the City Manager to allocate Public Benefit Program funds in the amount of \$90,000 to extend for one year the Lodi House-As-A-System Inspection Program and authorizing the City Manager to execute a contract with the Energy Doctor, Inc., to provide inspection services for this program.
- E-9 Adopted Resolution No. 2004-163 authorizing the City Manager to allocate Public Benefit Program funds in the amount of \$40,000 for the Lodi Residential Refrigerator/Freezer Recycling Program and authorizing the City Manager to execute a contract with JACO Environmental, Inc., to provide removal and recycling services for this program.
- E-10 "Adopt resolution authorizing the City Manager to enter into a Letter of Agreement between the City of Lodi and Northern California Power Agency for developing a wholesale electric delivery interconnection location at the White Slough Water Pollution Control Facility in an amount not to exceed \$70,000" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**
- E-11 Adopted Resolution No. 2004-164 authorizing destruction of certain Human Resources records.
1. Personnel employment records of separated full-time employees (over 5 years old).*
 2. Applications for employment from expired eligible lists (over 2 years).
 3. Examination files (over 5 years old).
 4. General Liability files (over 5 years old).*
 5. Workers Compensation files (over 5 years old).*
- *Microfilm copy of records will be retained.
- E-12 Set public hearing for September 1, 2004, to consider the Technical Equipment Purchase Proposal for Local Law Enforcement Block Grant Program.
- E-13 Set public hearing for September 1, 2004, to consider the certification of FINAL program Environmental Impact Report for the White Slough Water Pollution Control Facility and direct staff to make application to the San Joaquin Local Agency Formation Commission to designate the sphere of influence.

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 Hansen called for the public hearing to receive comments on and consider accepting the City of Lodi's Public Health Goals Report.

Public Works Director Prima reported that no comments had been received on the Public Health Goals Report. He explained that the Report is a state requirement which describes constituents found in Lodi's drinking water that do not exceed the maximum contaminant levels that are allowed, but are above the goal established by the State and Federal Environmental Protection Agency (EPA). Maximum contaminant levels are legal requirements that the City must not exceed. If it is not possible to meet the requirements, then the City must take the effected well off-line or put in a treatment unit. The Report identifies what constituents are to be detected, what the maximum contaminant level is, and what the goal is. In addition, it addresses what the best available treatment technology is, as well as general cost information. The annual operating costs are an estimate based on what the City doing now with filters on six wells for dibromochloropropane (DBCP). The filters are removing DBCP below the maximum contaminant level. Mr. Prima reported that

Lodi has a number of constituents that exceed the goals, which includes trichloroethylene (TCE). The treatment for TCE is granular activated carbon. One well in Lodi has had detections of TCE since 2003, and in 2004 there have been "a few more". There have also been detections of tetrachloroethylene (PCE). The maximum contaminant level of PCE is five micrograms per liter and the goal is .06 micrograms per liter (i.e. parts per billion). Mr. Prima reported that Lodi has had detections at "about half of a part per billion," which is well below the maximum contaminant level, but above the goal. He noted that the cost indicated in the report is only to add a filter to the wells; it does not deal with the groundwater contamination matter that Lodi is dealing with separately. In 2003, there was one month in which coliform bacteria was detected. A treatment would be to institute full-time chlorination. Mr. Prima stated that copper does not have a maximum contaminant level. Copper has an action level of 1.3 milligrams per liter and there is a percentile of samples allowed above that amount. Lodi slightly exceeded the goal for copper. Mr. Prima stated that if the costs in the report were accurate, it would amount to \$5 per month per customer to add the level of treatment indicated. He believed that the costs listed were too low. Mr. Prima confirmed that Lodi's water system complies with all of the health-based drinking water standards and maximum contaminant levels, as required by the California Department of Health Services and the U.S. Environmental Protection Agency and stated that no additional actions were required or recommended.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

There was no action taken on this matter.

H. COMMUNICATIONS

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

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

H-3 Appointments – None

H-4 Miscellaneous

a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through July 31, 2004.

I. REGULAR CALENDAR

I-1 "Adopt resolution authorizing City Manager to sign Memorandum of Understanding between Sacramento Area Council of Governments and San Joaquin Council of Governments, City of Galt, City of Lodi, and County of Sacramento regarding the coordination of ongoing transit planning for programming federal funds that support the ongoing and future deployment of transit services affecting the Lodi/Galt urbanized area"

Public Works Director Prima reported that the urbanized area for Lodi as defined by the U.S. Census Bureau now includes the city of Galt and some of the surrounding unincorporated areas in Sacramento and San Joaquin Counties. This "urbanized area" is the basis for the allocation of federal transit funds. Consequently, Lodi is now obligated to work out an arrangement with Galt and others to share the funds. Previously Lodi entered into a one-year agreement for fiscal year 2002-03 funding. Negotiations for remaining years are in progress.

Tiffani Fink, Transportation Manager, explained that the Memorandum of Understanding would clearly describe the process, what each party needs to contribute, and would address reporting requirements and project priorities.

Mr. Prima stated that periodic planning documents (i.e. program of projects) would be brought back to Council. In addition, he stated that the understanding between Galt and Lodi regarding funding would be brought back for Council's approval.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously adopted Resolution No. 2004-165 authorizing the City Manager to sign a Memorandum of Understanding between Sacramento Area Council of Governments and San Joaquin Council of Governments, City of Galt, City of Lodi, and County of Sacramento regarding the coordination of ongoing transit planning for programming federal funds that support the ongoing and future deployment of transit services affecting the Lodi/Galt urbanized area.

- I-2 "Authorize the City Manager to terminate lease agreement for Lodi Station North Annex with Cheryl Lafebre, dba Lodi Greyhound and Western Union"

Public Works Director Prima reminded Council that the City entered into a lease agreement with a local Greyhound agent for space at the north annex of the Lodi Station. The current tenant has been operating on a month-to-month basis. Staff wishes to have the option to renegotiate a new lease directly with Greyhound.

Tiffani Fink, Transportation Manager, explained that if staff's request was approved it would allow for reconsideration of the terms of a future lease, such as comparable rent prices, what types of services are typically included with the rent, etc.

In answer to Council Member Land, Mr. Prima acknowledged that late rent payments have been received by the tenant, and staff has received complaints about the interior condition of the building and hours of operation.

Mr. Prima stated that a formal bid process would not be used; a tenant would be selected after contacting other carriers.

Council Member Hitchcock preferred that a formal bid process be used, as she felt there may be a large number of people willing to provide services in a standard that the City expects.

City Attorney Schwabauer explained that a month-to-month lease can be terminated at the will of either the landlord or tenant without question, simply upon 30-days notice.

PUBLIC COMMENTS:

- Doralee Boles spoke in support of Cheryl Lafebre, the tenant in question and agent of record with Greyhound. Ms. Boles stated that she was the Rail Program Director for the Altamont Commuter Express (ACE) Train in its planning phases and the project manager for the planning phase of the Lodi terminal when it was relocated to its present location. Ms. Boles warned that since Ms. Lafebre is tenant of record with Greyhound she would have the opportunity to take her Greyhound service either to an adjacent community or to a different location in Lodi, which would have a negative impact on residents that use the service at the current terminal location. Ms. Boles stated that she had known Ms. Lafebre for many years and believed her to be a hard working, diligent, mother of three, who is an entrepreneur in the Lodi community. Ms. Boles stated that if Ms. Lafebre is forced to move there is the potential that Greyhound would eliminate service to the Lodi area entirely, as it has recently closed 237 of its smaller terminals nationwide.

- Cheryl Lafebre stated that she found out only yesterday that the City was planning to terminate her lease. In reference to complaints about her hours, Ms. Lafebre explained that she has only one employee who has to leave the facility from 2:00 to 3:30. Many of their customers do not read English so they cannot understand notices on the door. In addition, the entry door has a pushbutton lock and many people accidentally lock it on the way out. In reference to the condition of the building, Ms. Lafebre stated that she has asked the City to wax the floor, paint the interior, and clean the concrete on the exterior. She has a janitorial service come in each Tuesday; however, it is not enough to keep up with the public restroom. Ms. Lafebre reported that she has been an agent for Greyhound for the past seven years and has rented space from the City for the last four years. She stated that Greyhound sales overall are down to a point where she can barely afford to keep the business going. Ms. Lafebre acknowledged that she had previously agreed with the rent adjustment the City made to accommodate her situation; however, since that time she had divorced and now has a lower income.

MOTION / VOTE:

Mayor Pro Tempore Beckman made a motion, Howard second, to authorize the City Manager to terminate lease agreement for Lodi Station North Annex with Cheryl Lafebre, dba Lodi Greyhound and Western Union.

DISCUSSION:

Council Member Howard commented that this would allow an opportunity for staff to review the language in the contract, as well as determine whether there is enough need in the community to warrant having a Greyhound station in Lodi.

Council Member Hitchcock asked staff to quickly determine whether there would be ongoing Greyhound service, noting that she would like to see continuation of the service at the Lodi Station North Annex if possible.

VOTE:

The above motion carried by a unanimous vote.

I-3 "Approve comments on High-Speed Rail Environmental Impact Report"

Interim City Manager Keeter noted that a "blue sheet" was distributed to Council on this topic (filed).

Public Works Director Prima reported that the State of California had been working on developing a high-speed rail system for a number of years. The High-Speed Rail Authority is charged with developing the plans and setting routes. The purpose of the high-speed rail system is to provide an alternative to airline service and reduce southern/northern freeway traffic. It is not intended to be commuter rail. It was decided to use steel wheels on a steel rail with an electrified propulsion 200 mph class of train service. Mr. Prima explained that they would have to be on dedicated tracks that are physically separated by a minimum of 50 feet from adjacent tracks. There would be no at-grade road crossings. There is potential for significant impacts to the local community based on road closures. Train Riders Association of California is opposed to the southern alignment for the crossover and would prefer to have it in the Altamont area. Mr. Prima stated that from Lodi's perspective it would have been better if they used alignment further west on the old Western Pacific tracks that do not affect as many roadways as they would on the easterly alignment. The Environmental Impact Report did not address road closures, which would be a significant impact to the Lodi area.

Council Member Howard commented that she foresees a significant benefit from high-speed rail service. Presently, Amtrak stops at the Highway 99 Grapevine, after which passengers must transfer to a bus to go to the Los Angeles area. In addition, high-speed rail would reduce congestion and improve air quality. She understood that a \$14 billion bond in two parts would be needed; one paying for southern California to the bay area, and the second would pay for Merced to Sacramento.

Council Member Hitchcock and Mayor Hansen voiced a preference for the Altamont Pass route.

PUBLIC COMMENTS:

- Doralee Boles believed that the Altamont Pass would be a far better choice in terms of cost, alignment, and meeting the needs of the state. She stated that high-speed rail would potentially reduce the short distance air traffic from the Los Angeles International Airport by 50%. Ms. Boles reported that she was a member of the high-speed rail study group that went to Europe to study its government-owned rail system. In Europe, there is an integration of commuter and high-speed rail service.

Mr. Prima stated that he would prepare a letter with comments on the High-Speed Rail Environmental Impact Report and provide copies to Council.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously approved comments (under the Mayor's signature) on the High-Speed Rail Environmental Impact Report on the proposed California High-Speed Train System regarding issues of the Altamont corridor and impacts related to road closures, grade separations, and road crossings.

- I-4 "Council discussion and appropriate action regarding a proposed amended and restated contract for legal document services (docket clerk) with Kronick, Moskovitz, Tiedemann & Girard to assist with the Environmental Abatement Program litigation and/or proposed alternatives"

City Attorney Schwabauer reminded Council that it approved a separate contract with Kronick Moskovitz Tiedemann & Girard (KMTG) for the services of a paralegal to manage the voluminous amount of Environmental Abatement Program (EAP) litigation files. He reported that the amount of files that continue to be produced are more than the City Attorney's Office staff is able to handle. He noted that prior to January 2004 the EAP files were maintained by an outside firm. KMTG originally offered the services of a paralegal at their cost of \$25 per hour. Because KMTG no longer has a large contract with the City, it has proposed to raise the contract to \$50 per hour. Mr. Schwabauer estimated that the work could be completed in an eight-hour period once each week. Mr. Schwabauer commented that he would continue to look for a more cost-effective solution for the City, such as hiring an independent contractor at a lesser hourly rate; however, until that occurs he recommended that Council approve continuance of the contract with KMTG for the services of a paralegal at \$50 hour, eight hours per week.

Interim City Manager Keeter noted that the staff report for this item contains an error under funding, as it should be deducted equally from the Water and Wastewater Funds.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously adopted Resolution No. 2004-166 authorizing the City Attorney's Office to continue its contract for legal document services with KMTG at a rate of \$50 per hour (retroactive two weeks) for eight hours per week to be funded from the Water/Wastewater funds and authorized the City Attorney to hire an independent contractor at a lesser rate, if possible.

- I-5 "Update on process of recruitment for new City Manager, authorize Mayor Hansen to execute an agreement with CPS Executive Search, and appropriate funds up to \$25,500"

Mayor Hansen reported that four Council Members met individually today with Kris Kristensen from CPS Executive Search and Council Member Hitchcock would be providing her comments to him in a phone interview tomorrow. Mr. Kristensen will be providing a

presentation to Council at the August 24 Shirtsleeve Session, at which time he will summarize community and Council Members' comments regarding the desired profile of Lodi's next city manager. Once the final two or three candidates are selected, their names would be publicly known and interviews would take place with a community panel and Council. Following the election in November, there would be an opportunity for the finalists to meet with the two new Council Members. Advertisements will be published in the Western Cities magazine in September and October, as well as on its website, ICMA newsletter and website, and northern & southern California Mid-Management Association websites. He distributed a copy of the CPS Executive Search professional services agreement (filed).

MOTION / VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously authorized Mayor Hansen to execute an agreement with CPS Executive Search and appropriated funds up to \$25,500 from the Contingency Fund.

SPECIAL MEETING OF THE CITY COUNCIL

At 9:00 p.m., Mayor Hansen adjourned the Regular meeting of the City Council to a Special meeting (NOTE: refer to the Special meeting minutes of August 18, 2004).

At 9:05 p.m., Mayor Hansen adjourned the Special meeting and reconvened the Regular meeting for the purpose of conducting the remaining items on the agenda.

I. REGULAR CALENDAR (Continued)

E-10 "Adopt resolution authorizing the City Manager to enter into a Letter of Agreement between the City of Lodi and Northern California Power Agency for developing a wholesale electric delivery interconnection location at the White Slough Water Pollution Control Facility in an amount not to exceed \$70,000"

Mel Grandi, Electric Services Manager, explained that this matter is being done in conjunction with the wastewater treatment plant expansion, which will require an increase in electrical load from 750kw demand to 2 megawatt. Presently, the facility is served by two services from Pacific Gas & Electric (PG&E). PG&E estimated the cost to upgrade the two services at \$2.5 million to \$3 million. Staff's recommended action is budgeted through the expansion project. Mr. Grandi explained that it was placed in Electric Utility's improvement budget on an interim basis and an interfund transfer would be done mid-year.

Public Works Director Prima confirmed that this had been included in the overall planning done for the financing. He reported that the City had to pay \$10,000 to PG&E just to get an estimate of the costs to do the upgrades. There is a significant cost savings in Electric Utility's alternative. He reminded Council that White Slough is in a three-phase project. Currently, it is in the middle of phase 2. Two financings have occurred; \$5 million last year and \$25 million this year. During each of the financings, staff indicated that the City was borrowing a little ahead to apply to the next phase so that there would be adequate cash flow to do design work and continue the project so that by the time the last financing is done in two to three years, the final costs would be known. He noted that as part of this work, upgrades to the substation at the Steam Injected Gas Turbine (STIG) unit would be done in order to get the connection to the White Slough facility. Standby generators are planned as the backup.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, unanimously adopted Resolution No. 2004-167 authorizing the City Manager to enter into a Letter of Agreement between the City of Lodi and Northern California Power Agency for developing a wholesale electric delivery interconnection location at the White Slough Water Pollution Control Facility in an amount not to exceed \$70,000.

J. ORDINANCES

J-1 "Ordinance No. 1750 entitled, 'An Ordinance of the City Council of the City of Lodi Amending Chapter 13.04 of the Lodi Municipal Code by Repealing and Reenacting Section 13.04.130, Relating to Low-Income Adjustments'" was ***pulled from the agenda and continued to the Regular City Council meeting of September 1, 2004.***

J-2 Following reading of the title of Ordinance No. 1751 entitled, "An Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Rezoning 449 East Harney Lane (APN 062-290-17) from R-MD, Residential Medium Density, to PD(36), Planned Development Number 36, for The Villas," having been introduced at a regular meeting of the Lodi City Council held August 4, 2004, the City Council, on motion of Council Member Hitchcock, Beckman second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

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

- Mayor Hansen asked the Interim City Manager and Finance Director to provide an overview to Council at its regularly scheduled meeting on October 20 regarding how the structural imbalance of the budget is going to be approached.

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

- Interim City Manager Keeter reported that staff has already begun working on follow up to suggestions made at last night's Special Joint Meeting with the East Side Improvement Committee.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:17 p.m., in memory of John L. Ferrero, longtime member of the Lodi Sister City Committee, and Bruce Lamont Hood, father of Jeff Hood, Lodi Bureau Chief for The Record newspaper.

ATTEST:

Susan J. Blackston
City Clerk