

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, SEPTEMBER 1, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of September 1, 2004, was called to order by Mayor Hansen at 5:04 p.m.

Present: Council Members – Beckman, Hitchcock, Howard (arrived at 5:07 p.m.), and Mayor Hansen

Absent: Council Members – Land

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

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Conference with labor negotiator, Human Resources Director Joanne Narloch and Rick Bolanos, regarding Police Officers Association of Lodi and Lodi Police Dispatchers Association pursuant to Government Code §54957.6
- b) Labor relations – Lodi Professional Firefighters: give direction to negotiators, Human Resources Director Joanne Narloch and Rick Bolanos, in preparation for Grievance Arbitrations (Government Code §54957.6)
- c) Prospective lease of City property at 2 E. Elm Street in association with the Downtown Park & Ride Structure; the negotiating parties are Atlas Properties, aka Anthony and Edward Barkett, and the City of Lodi; price and terms of the lease are under negotiation; Government Code §54956.8.
- d) 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
- e) 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
- f) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- g) 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
- h) 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
- i) 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
- j) 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

C-3 ADJOURN TO CLOSED SESSION

At 5:04 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:05 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:13 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Items C-2 (a), (b), and (c), Council provided direction.

In regard to Item C-2 (d), Council authorized the admission to the Lodi Northern Plume Area Joint Cooperative Group of the Benson parties on the basis that they would pay the costs equally to all other parties, with the exception of the oversight costs in the amount of \$458; the value of their admission is approximately \$45,000.

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

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of September 1, 2004, was called to order by Mayor Hansen at 7:13 p.m.

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

Absent: Council Members – Land

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

B. INVOCATION

The invocation was given by Reverend David S. Hill, Grace Presbyterian Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hansen presented a proclamation to Stephanie Allen, with the Lodi Public Library's Adult Literacy Program, proclaiming Wednesday, September 8, 2004, as "International Literacy Day" in the City of Lodi.

D-3 (a) Following introductory comments by Police Chief Adams, Mayor Hansen presented a Certificate of Recognition to Lieutenant Gary Benincasa for his 18 years of service on the Lodi Police Special Weapons and Tactics (SWAT) Team.

D-3 (b) Following introductory comments by Police Chief Adams, Mayor Hansen presented a Certificate of Recognition to Animal Services Supervisor, Terri Arbuckle, for her many years of service to the City of Lodi Animal Shelter.

D-3 (c) Mayor Hansen presented a Certificate of Recognition to Boy Scout Joshua David Halecky for obtaining the rank of Eagle Scout.

D-3 (d) Robina Asghar, representing the Community Partnership for Families, and Nawaz Shah gave a presentation to the City Council regarding the upcoming Pakistani and Mexican Independence Day Celebrations.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the Interim City Manager, Council, on motion of Mayor Pro Tempore Beckman, Hitchcock second, approved the following items hereinafter set forth **except those otherwise noted** by the vote shown below:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Land

- E-1 Claims were approved in the amount of \$3,651,945.17.
- E-2 The minutes of August 17, 2004 (Shirtsleeve Session), August 17, 2004 (Special Meeting), and August 17, 2004 (Joint Special Meeting with the East Side Improvement Committee) were approved as written.
The minutes of July 21, 2004 (Regular Meeting) were ***removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.***
- E-3 Adopted Resolution No. 2004-169 authorizing the purchase of a replacement rapid response equipment vehicle for the SWAT Team from El Dorado Bus Sales, of Hayward, in the amount of \$82,000 from Asset Seizure funds and \$850 from State COPS.
- E-4 Adopted Resolution No. 2004-170 accepting improvements at 1115 East Lockeford Street.
- E-5 Adopted Resolution No. 2004-171 accepting improvements in Millsbridge II, Tract No. 3343, and amending Traffic Resolution 97-148 by approving stop control on Tienda Drive at Lakeshore Drive.
- E-6 Adopted Resolution No. 2004-172 approving the addendum to the Improvement Agreement for the Public Improvements of Almondwood Estates, Tract No. 3273, and accepting Stockton Street and Almond Drive street frontage improvements in Almondwood Estates, Tract No. 3273, directed the City Manager and City Clerk to execute the addendum to the Improvement Agreement on behalf of the City; and appropriated funds in the amount of \$20,300.
- E-7 Adopted Resolution No. 2004-173 approving the final map, Improvement Agreement, and Water Rights Agreement for Legacy Estates, Unit 2, Tract No. 3382, and amending Traffic Resolution 97-148 by approving stop control on Goehring Drive at Wyndham Way, directed the City Manager and City Clerk to execute the Improvement Agreement, Water Rights Agreement, and map on behalf of the City, and appropriated funds in the amount of \$5,500 for the required reimbursements.
- E-8 Adopted Resolution No. 2004-174 to approve the Water Rights Agreement for APN 031-040-10 (formerly known as 1219 Bezug Lane) and for APN 031-040-11 and APN 031-040-12 (formerly known as 1239 and 1251 Bezug Lane) and directed the City Manager and City Clerk to execute the Water Rights Agreements on behalf of the City; and adopted Resolution No. 2004-175 authorizing the City Manager to execute future Water Rights Agreements without separate Council action.
- E-9 Adopted Resolution No. 2004-176 authorizing the City Manager to execute Amendment No. 4 to Contract 96-SNR-00110 between the Bureau of Reclamation and the United States of America Department of Energy Western Area Power Administration with the City of Lodi for the funding of power operation and maintenance for Central Valley Project power facilities.
- E-10 Adopted Resolution No. 2004-177 appointing Tiffani M. Fink, Transportation Manager, as the City of Lodi Director and Kirk J. Evans, Risk Manager, as Alternate for the California Transit Insurance Pool (CalTIP).
- E-11 Adopted Resolution No. 2004-178 authorizing transit services outside of regular service operations for certain annual events and authorize the Transportation Manager to advertise to determine if a willing and/or able provider exists for these events.
- E-12 "Adopt resolution authorizing the Greater Lodi Area Youth Commission to increase the number of student appointees from nine to eleven and direct the City Clerk to post for two vacancies" was ***pulled from the agenda pursuant to staff's request.***

ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

E-2 "Approve minutes: July 21, 2004 (Regular Meeting)"

NOTE: Council Member Howard abstained from voting on this matter due to the fact that she was not present at the meeting of July 21, 2004.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, approved the minutes of July 21, 2004 (Regular Meeting), as written, by the following vote:

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

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Arthur Price urged citizens not to sign the petition for the ¼ cent sales tax increase initiative by proponents John Johnson and Lodi Citizens for Public Facilities. He cited the following reasons for his opposition:
 1. It is a redundant tax that falls upon those least able to pay, i.e. the poor, elderly, and young.
 2. The largest source of sales tax in Lodi is derived from automobile sales. Mr. Price feared that raising the sales tax would drive customers to Stockton for purchases of autos, large appliances, and other high-priced merchandise.
 3. The initiative does not mention the DeBenedetti Park project, which Mr. Price was most in favor of.
 4. He did not believe the initiative would have the two-thirds vote support it would need to pass, in which case the \$100,000 expense for a special election would be an unnecessary burden on the City at a time of budget crisis.
 5. Mr. Price believed in representative government, noting that Council is answerable to the people, as no citizen group is.
- Leslie Kreis expressed frustration that Item J-1, Ordinance 1750 regarding low-income discounts, has again been pulled from the agenda.

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 consider resolution adopting Engineer's Report, confirming the assessments, overruling protests and declaring Assessment Ballot results and annexing territory to a Maintenance Assessment District and forming Zone 5 and Zone 6 (Legacy Estates I, Legacy Estates II, and Kirst Estates Zone 5 and The Villas Zone 6 Lodi Consolidated Landscape Maintenance District No. 2003-1).

Public Works Director Prima stated that landscape maintenance assessment districts are now a standard for new subdivisions and there is typically no opposition. The assessments cover the cost of landscaping along the major arterials, walls, street trees, etc.

In answer to Council Member Hitchcock, Mr. Prima explained that the assessments are a prorated amount of public parks that serve the area, using a standard of acreage per person. In accordance with the City's General Plan, neighborhood parks are provided on a citywide basis for new development, which are being built through the impact fee program. Under Lodi Consolidated Landscape Maintenance District No. 2003-1, new developments are asked to pay an ongoing share of maintenance by a prorated amount.

Hearing for Legacy Estates I & II and Kirst Estates Opened to the Public

None.

Public Portion of Hearing Closed for Legacy Estates I & II and Kirst Estates

Hearing for The Villas opened to the Public

None.

Public Portion of Hearing Closed for The Villas

City Clerk Blackston reported that she personally received the assessment ballots for Legacy Estates I & II and Kirst Estates (Zone 5) cast in the special assessment mailed ballot procedure as called by the City Council in its Resolution 2004-136 adopted July 7, 2004, and in accordance with the instructions contained in that resolution, she declared the balloting closed and certified the results of the tabulation to be as follows:

Total assessment ballots cast YES \$51,290

Total assessment ballots cast NO Zero

Ms. Blackston explained that the assessment ballots were weighted according to the proportional financial obligation the affected property has to the total assessment amount. The assessment ballots cast "yes" equaled 100% of the total assessment ballots cast.

In addition, Ms. Blackston reported that she received the assessment ballot for The Villas (Zone 6) and in accordance with the instructions contained in Resolution 2004-136, she declared the balloting closed and certified the results of the tabulation to be as follows:

Total assessment ballots cast YES \$41,920

Total assessment ballots cast NO Zero

The assessment ballot cast "yes" equaled 100% of the total assessments ballots cast.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Hansen second, adopted Resolution No. 2004-179 adopting Engineer's Report, confirming the assessments, overruling protests and declaring Assessment Ballot results and annexing territory to a Maintenance Assessment District and forming Zone 5 and Zone 6 (Legacy Estates I, Legacy Estates II, and Kirst Estates Zone 5 and The Villas Zone 6 Lodi Consolidated Landscape Maintenance District No. 2003-1). The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Land

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider the Technical Equipment Purchase Proposal for the Local Law Enforcement Block Grant Program.

Police Chief Adams reported that on June 30 the Police Department applied for and received a grant from the Federal Local Law Enforcement Block Grant Program in the amount of \$33,813. The grant requires a matching fund of \$3,757, which will be taken from the Police Department's 2004-05 State Citizens Option for Public Safety Grant. He stated that these funds would be placed in a special revenue fund pending dispersal. On July 27, an advisory board was convened and reviewed the proposals for disbursement of the funds. It is proposed that the funds be used for computer and hardware software acquisitions and technology updates for the Police Department.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Howard, Beckman second, adopted Resolution No. 2004-180 approving the Technical Equipment Purchase Proposal for the Local Law Enforcement Block Grant Program. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Land

- G-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing 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.

Interim City Manager Keeter stated that Lodi is proposing a 5,280 acre sphere of influence around the White Slough Water Pollution Control Facility, which includes the City's existing 1,040 acres to assure that sufficient area for future construction of land disposal, storage facilities, and buffer space are available to serve the long-term future growth under the existing general plan of the City of Lodi.

Community Development Director Bartlam explained that two actions are requested of Council: 1) certify the final Environmental Impact Report (EIR) and 2) direct staff to make application to the Local Area Formation Commission (LAFCO) to designate a sphere of influence for which the EIR was prepared. He reminded Council that the area around White Slough had been studied for a number of years by the City for long-term options for disposal of treated effluent. In 2001, the Wastewater Master Plan was completed and defined a variety of treatment discharge and reuse options. Based on that Master Plan, as well as the City's current State permit for operation of the facility, there are a number of improvements taking place at the White Slough Water Pollution Control Facility. Mr. Bartlam stated that it has become clear that the City needs to begin looking long term at where treatment options could take place in terms of additional land. The three alternatives addressed in the staff report (filed) consider ways in which the City could dispose of treated effluent over the course of the build out of the current general plan. Mr. Bartlam described the three alternatives as follows:

Alternative 1

To continue and expand the way Lodi deals with effluent today, i.e. to store treated water in ponds during winter months and then irrigate crops in summer months on the property (approximately 800 acres) owned by the City.

Alternative 2

This alternative includes the incorporation of a percolation basin, which is a pond in which treated effluent would slowly percolate back into the groundwater table. Once the water has percolated, the soil would be broken and filled again with water following which the process begins again. This alternative requires land for a storage basin and additional areas for irrigation of agricultural crops.

Alternative 3

A treatment wetland with water in it year round on property to the south and southwest of the current City property. This alternative would have storage pond requirements and irrigated farmland.

Mr. Bartlam explained that the three options, in total, represent the sphere of influence proposed and identified in the EIR. The City is nearing completion of its current state regulatory permit for the White Slough Water Pollution Control Facility. Over the course of the next three to five years, the City will need to make a decision on which option to pursue.

Mr. Bartlam reported that on October 11 the Planning Commission held a public hearing to consider the recommendation of the EIR for Council's certification. At the public hearing, there were five property owners within the proposed sphere boundary who spoke in opposition. Their comments were centered around what they considered a loss of property value by being designated within the City's sphere. Jim Glaser, city of Stockton Community Development Director, spoke in opposition to the document on the basis of three areas of environmental concern: 1) alternatives, 2) air quality, and 3) land use conflict. Mr. Bartlam stated that it is staff's opinion that those concerns were addressed within the final document in response to comments. Mr. Bartlam recommended that Council certify the EIR and direct staff to make appropriate application to LAFCO.

Mayor Hansen stated that Council received the following "blue sheets" related to this item (all filed):

- Communication in opposition to the proposal from Angelina Rego;
- Communication in opposition to the proposal from Michael Rego;
- Letter addressing the EIR from David Ivester of the firm Stoel Rives LLP; and
- An amended draft resolution.

Public Works Director Prima introduced audience members Elizabeth Hughes, of the firm Hughes Environmental Consulting, and Kathryn Gies from West Yost and Associates.

Hearing Opened to the Public

- David Ivester, of the firm Stoel Rives, stated that he was representing the city of Stockton. Mr. Ivester stated that his primary purpose in appearing was to ensure that his letter had been received by Council (which Mayor Hansen previously confirmed). He highlighted two aspects of the EIR that were found to be of concern: 1) discussion of cumulative impacts and 2) discussion of alternatives. He felt that these discussions were insufficient in detail.

Mayor Hansen pointed out that there is a conflict between the spheres of influences as proposed by Lodi and Stockton; however, Lodi prepared an EIR, whereas, Stockton only prepared a negative declaration.

Addressing Mr. Ivester, Council Member Hitchcock asked him whether he would have been surprised if Lodi had done a negative declaration as opposed to an EIR, and Mr. Ivester stated that he believed everyone would agree that a negative declaration would not be appropriate for the City of Lodi's project. At the request of Ms. Hitchcock, Mr. Ivester further addressed the points made in his letter. He stated that the discussion of cumulative impacts fell short of what the California Environmental Quality Act (CEQA) requires. As an example, in dealing with air quality the EIR indicates that cumulative air quality impacts are potentially significant and then indicates a mitigation measure of compliance with existing air quality laws. He stated that compliance with existing air quality laws is not always adequate to mitigate a potential effect. The EIR does not include an explanation of whether, and how, the mitigation measure would reduce the impacts to a less than significant level. The EIR focuses on alternatives within the proposed sphere of influence area, but it does not discuss what alternatives were considered beforehand outside that area, and particularly, areas to the north. The city of Stockton offered a comment to this effect earlier and the response was basically that transporting the wastewater to areas to the north would be more difficult than

transporting it to the proposed areas. Mr. Ivester stated, that, in and of itself does not mean those alternatives outside the proposed area would be infeasible and unworthy of consideration or discussion in the EIR. He urged Council to read the letter he submitted on this matter and stated that the two points he just addressed were the most important.

- Richard Lauchland stated that he was a property owner within Lodi's proposed sphere of influence amendment. He believed the City was premature in making an application to LAFCO to enlarge the White Slough sphere of influence and pointed out that the City has not yet even decided which of the three alternatives is preferred. He felt there should be more balance in weighing the City's convenience against the impact it would have on property owners. He asked that the City reduce the scope of its sphere of influence to the minimum possible size and to a single preferred alternative. He referenced appendix F in CEQA and stated that Lodi's EIR does not include the following required information:
 - Discussion of the potential energy impacts of the proposed project;
 - Five elements of the project description;
 - Six potential environmental impacts that should be studied; and
 - Five potential mitigation measures that should be evaluated.

Council Member Howard stated that she had spoken with Mr. Lauchland's brother, Robert, about this matter. She pointed out that the Lauchland's have asked to place their property in Stockton's sphere of influence; however, its plan is for residential and commercial development.

Richard Lauchland asserted that if his property were zoned for wastewater treatment it would render it useless as a wine grape vineyard. He stated that vineyards do not use that much water during the period of time that the City proposes to distribute it. Mr. Lauchland learned in June that the City of Lodi was considering including his property in its wastewater treatment facility sphere of influence and felt that he had no choice but to approach the city of Stockton about being placed in its sphere instead. Mr. Lauchland reported that his property is one mile outside the city limits of Stockton and approximately three miles from the White Slough facility. Mr. Lauchland stated that other property owners adjacent to him also asked to be included in Stockton's sphere of influence, and they were receptive to the idea.

- Robert Lauchland stated that Stockton's sphere of influence would allow him a future to continue farming. He believed having his property included in Lodi's proposed sphere of influence would necessitate pulling out his vineyard and replacing it with a low-value crop that could tolerate treated effluent. Vineyards are valued at \$25,000 to \$30,000 an acre; whereas, row crops or bare land within a wastewater treatment facility sphere of influence would be worth \$7,000 an acre. This would also take away two-thirds of their ability to obtain lending. Mr. Lauchland stated that they would never be able to sell the site as a vineyard and would be forced to seek recovery from the City of Lodi for this action. The economic impacts upon existing farm operations and landowners are not addressed in the EIR, and Mr. Lauchland believed this to be a major deficiency of the document. Lodi's proposal is opposed by the Farm Bureau, the Lodi District Grape Growers, and other agricultural interests. He believed that this action would panic owners of land around Lodi to sell quickly to development interests to try to protect their land value. He asserted that the City does not need the sphere of influence in order to secure land for its sewer treatment facility expansion, unless its intent is to devalue the land so the City can purchase it more cheaply later. He pointed out that all the land around the plant is available for sale or lease now at fair market price. He urged Council to reconsider the effects and make an attempt to mitigate the impact on high-value land such as vineyards.

Mayor Hansen stated that keeping the City's water treatment and disposal options open protects the interest of the taxpayers of Lodi. Mr. Hansen disclosed that he met with Robert Lauchland previously about this topic.

In answer to Mayor Hansen, Robert Lauchland stated that he owned 145 acres, which is included in the most expansive of Lodi's sphere alternatives. He reported that as a member of the Greenbelt Task Force he met every two weeks with Ms. Hitchcock and Mr. Bartlam; however, this matter was not addressed until after an article was published in the newspaper.

Addressing Mr. Lauchland, Council Member Hitchcock stated that the issue appears to be whether his land goes into Lodi's sphere of influence, which the City has been planning for three or more years, or whether it goes into Stockton's plan to house 125,000 people between Eight Mile Road and Mettler Road.

Mr. Lauchland reiterated that Stockton's sphere of influence would allow him to continue to farm; whereas, Lodi's wastewater treatment facility sphere of influence would destroy his wine grape vineyard operation. He stated that there was no projection for housing in the sphere of influence proposed by Stockton, which is why it did not require an EIR.

Mr. Bartlam stated that the sphere proposal is a planning tool. It would not change the land use designation of Mr. Lauchland's property, as that jurisdiction would remain with the County of San Joaquin. Being placed within Lodi's sphere of influence would have no impact on Mr. Lauchland's vineyard operation. It would only have effect at such time that the City chose to utilize the property by virtue of paying fair market value for it or coming to an agreement on the use of treated wastewater on the property if agreed to by the owner. He reported that a notice of preparation was sent to all properties within the projected sphere.

- Pati Hamm stated that she is from a third-generation family to operate the dairy on Thornton Road adjacent to the White Slough property. Ms. Hamm noted that her family has rented over 200 acres of White Slough property from the City for the last ten years. She reported that approximately 10% of the 1,000 acres that the City owns at White Slough is currently not being used for wastewater discharge. Over 275 of these acres were purchased by the City from a landowner 15 years ago. Ms. Hamm noted that a sphere of influence change was not needed at that time and she questioned why it would be now. She believed Lodi's proposal was bad for agricultural property. When land is placed within Lodi's sphere of influence, there would be limitations on what crops can be grown. Land values in the sphere of influence could be reduced to "next to nothing." Lenders loan on the value of equity, so the ability to obtain a loan would also be significantly reduced. Ms. Hamm asserted that if the City needs more land it should approach the landowners and purchase it from them at fair market value. She stated that the San Joaquin County Farm Bureau Federation representing over 6,000 farm families submitted a letter to Community Development Director Bartlam dated July 21, 2004, in opposition to Lodi's sphere of influence proposal.

Mayor Pro Tempore Beckman stated that it is true that changing the sphere of influence would not affect landowners' current ability to run their operations; however, it would have a significant impact on their land's resale value.

- William Hammonds stated that he owned approximately 600 acres south of White Slough's southern boundary, which would be impacted by alternatives 1 and 3. His family has farmed the area since 1885. He has asked to be included in the city of Stockton's sphere of influence, and not in Lodi's. Mr. Hammonds and another group of landowners spent \$9 million to \$12 million to construct a levy around properties that are

west of Interstate 5 and south of White slough. The levy took the property out of the FEMA 100-year flood plan. He expressed great concern that Lodi would attempt to buy the land at a vastly discounted price after all the work that has gone into it and history of ownership. Mr. Hammonds stated that he heard about Lodi's proposal for the first time when he attended a recent Greenbelt Task Force meeting. The first written notice he received was sent out only one week ago. He recalled that the City of Lodi approached his family a number of years ago with an interest in purchasing property south of the current southern boundary of White Slough. The property was appraised, following which no further communication from the City was received. Mr. Hammonds stated that the property would be worth far more today. In summary, Mr. Hammonds stated that he did not want his property to be a buffer zone, a sewer disposal site, or his farmland devalued by 80% or 90%.

Mayor Hansen reiterated that what is driving this issue is an effort to meet the requirements that the State of California has put upon the City.

Mr. Hammonds replied that the sphere of influence is being expanded with the expressed or implied intent of reducing property values so the City can buy it at a lesser rate. Mr. Hammonds noted that he heard that statement made at a Greenbelt Planning Commission meeting from members of the Commission and members of staff. Fair market value would change significantly once property is in the Lodi's sphere of influence.

Mr. Bartlam confirmed that the fair market value of land in Stockton's sphere of influence would be much different than if it were in Lodi's sphere of influence.

- Steve Herum stated that he represented the Stockton Family Farm Coalition, comprised of landowners with property in and around Lodi's proposed sphere of influence. He stated that Lodi does not need the sphere of influence to acquire the land it needs. The City could enter into a lease or purchase property for the disposal of treated effluent. Mr. Herum stated that the EIR did not fulfill its requirement as an informational document. The EIR did not provide a sufficient statement for determining why some impacts were considered to be less than significant, nor did it conclude why certain mitigation measures were infeasible. As a result, Mr. Herum stated that the EIR did not meet the minimum requirements by state law. The EIR states that the tonnages of pollution are going to increase because of the project and that causes respiratory ailments. It does not, however, inform the public of what are going to be the increased incidents of respiratory disease because of the increased tonnage of PM10. A recent case, *Protect the Historic Amador Waterways*, was overturned by the court of appeals for using the same failed methodology that Lodi has used. Mr. Herum stated that the response to comments was also insufficient. As an example, he had commented that with respect to the cumulative impacts (e.g. air quality, traffic) Lodi did not look at the Spanos commercial development or any development in Stockton. The draft EIR stated that only the Lodi General Plan and the San Joaquin County General Plan was used to determine cumulative impacts. On page 4.4 of the final EIR, a minor change was made to add the city of Stockton's General Plan; however, the EIR notes that a summary of cumulative impacts is provided in Section 7.0 and when referring to that section it states that the potential cumulative impacts of the build out, when combined with the effects of growth and development forecast for the City of Lodi General Plan area and the San Joaquin County General Plan, could result in cumulative impacts of the environment. Mr. Herum stated that the cumulative impacts were under projected. In addition, he believed that the EIR treated the cumulative analysis incoherently. At Section 5.1 of the draft EIR, it presented three options: 1) 2,310 acres; 2) 3,890 acres; and 3) 4,470 acres. The alternative presented was 4,240 acres. Mr. Herum asked how an EIR can have options that are not alternatives. The document then rejects the 4,240 acre alternative because it would be too small to create the buffer, and yet there is no evidence in the EIR of what an adequate buffer is.

Mr. Herum stated that if Lodi changes its sphere of influence his clients would not be able to get loans for capital improvements because no bank would be able to amortize it, due to the threat of being used for wastewater treatment facility purposes. He asserted that his clients did not make the wastewater problem, they do not benefit from the treatment facility, and should not be harmed as a result of it. Mr. Herum stated that taking action tonight would create a liability of the City to all of the property owners. Furthermore, he stated that all 4,000 acres are potentially being condemned by the City's action and they will be looking at pre-condemnation damage. The EIR specifically states that there would be buffer properties, yet there is no compensation for those properties. Mr. Herum asserted that the City is taking away his clients property rights.

Mr. Herum agreed with the former speaker that appendix F in the preamble states that an EIR shall include energy conservation sections, yet it is not in the document. He stated that on page 2.4 the language is virtually identical to the language in the initial studies that the city of Stockton prepared. Mr. Herum was not aware of another city in the Central Valley proposing to solve their wastewater treatment State mandates by having a non-contiguous sphere of influence of 4,000 acres, and believed it to be the largest in the history of California.

Council Member Hitchcock stated that Lodi's proposed sphere of influence prevents development by another entity that wants to come into that area. She then elaborated by saying that the city of Stockton wants residential development to occur on the property. By protecting Lodi's sphere of influence it retains the property for long-term planning of wastewater treatment facility needs. If the State eventually decides that the City can no longer discharge into the Delta, and Stockton or the County has already encroached on the area, Lodi would have no land available to purchase for discharge.

Mr. Herum alleged that this topic has nothing to do with the wastewater treatment facility needs; it is a "Trojan horse" to prevent Stockton from growing north.

Mayor Hansen believed that Mr. Herum's purpose was not only to protect his client's rights, but to provide an opportunity for the massive expansion that the city of Stockton wants to pursue. He noted that the dilemma for the Council is to protect the City's investment. He asked Mr. Herum who he was representing when he spoke at the Stockton City Council meeting recently.

Mr. Herum replied that he was representing a number of landowners. He suggested that Lodi ought to have a better idea of how much land it needs before proceeding with the sphere of influence.

- Steve Coldani stated that he and his family own approximately 800 acres within the sphere of influence and expressed opposition to the proposal.
- John Cosby suggested that Lodi do more to limit its growth, intimating that increased population contributes to the difficulties being encountered at the wastewater treatment facility. He urged Council to delay its vote tonight and read the Constitution of the State of California regarding freedom and property owners' rights.
- Janice Hart stated that she owns 1.06 acres on DeVries Road just outside the proposed sphere of influence. She asked why the City had selected so much property north of Lodi and questioned the environmental soundness of applying treated effluent in one location instead of smaller amounts distributed more widely.

Public Portion of Hearing Closed

In answer to the previous speaker and questions from Council, Kathryn Gies of West Yost and Associates explained that, in the technical document, her firm considered proximity to the treatment plant, existing zoning, and soil type. She explained that when treated effluent is used for irrigation it must be applied at an agronomic rate. The City is prohibited from going west because of the Delta boundary. The areas to the east of Interstate 5 are within the 100-year flood boundary. Areas to the west and north move uphill and would require crossing major roads necessitating sub-service conveyance and additional facilities to get the water to those locations. Lodi is currently in the process of constructing a filtration facility that would allow for completely unrestricted irrigation on property either owned by the City or any landowner. Agricultural reuse of the water would be a benefit to the citizens and those that receive the water. Ms. Gies confirmed that treated effluent could be applied to wine grape vineyards. Napa and Sonoma counties use reclaimed water to irrigate vineyards.

Elizabeth Hughes, of Hughes Environmental Consulting, reported that her firm began preparing the EIR over a year ago. A Notice of Preparation was submitted to the public and to agencies for comments. The draft document was released for public review. She noted that it is a program level document indicating that there is no project and no action is being taken. If the City decided to go forward and look at one of the options, there would be detailed environmental analysis at that time in a project level EIR.

Mayor Pro Tempore Beckman disclosed that Richard and Robert Lauchland were his cousins; their grandfather was his great grandfather. He believed that the duty, role, and responsibility of government is primarily to protect and preserve private property rights; another role is to provide municipal utilities, and tonight those are in direct conflict.

MOTION #1:

Mayor Pro Tempore Beckman made a motion to approve certification of the FINAL Program Environmental Impact Report (EIR 03-02) for the White Slough Water Pollution Control Facility and further direct staff to make application to LAFCO to designate the sphere of influence; and 1) that upon Lodi's annexation of land that provides what is needed for the White Slough Treatment Facility, the sphere of influence expansion that is not needed would be rescinded; and 2) eminent domain would not be used in determining options or land to be annexed. The motion **died** for lack of a second.

MOTION #2:

Council Member Hitchcock made a motion, Howard second, to adopt Resolution No. 2004-181 approving certification of the FINAL Program Environmental Impact Report (EIR 03-02) for the White Slough Water Pollution Control Facility and further directing staff to make application to LAFCO to designate the sphere of influence.

DISCUSSION:

Mayor Pro Tempore Beckman stated that if it is the City's desire to use eminent domain and pay fair market value then it should do so prior to putting the property within the sphere of influence, noting that the price would change with the land designation.

In response to Mayor Pro Tempore Beckman, City Attorney Schwabauer stated that extra territorial eminent domain is possible. He did not believe the action Council was taking tonight would affect the appraised value of the property for purposes of eminent domain.

Mayor Hansen stated that timing appears to be critical, as moving forward with the sphere of influence would allow the City additional time to decide what the best alternative is.

Mayor Pro Tempore Beckman acknowledged that Lodi needs to protect its sphere of influence from the city of Stockton. He asked Mr. Bartlam to remember his previous comments this evening, i.e. that the landowners can sell to the City of Lodi when they choose.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Land

RECESS

At 10:23 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 10:30 p.m.

H. COMMUNICATIONS

H-1 On recommendation of the City's contract administrator and Human Resources staff, the City Council, on motion of Mayor Hansen, Howard second, rejected the following claims by the vote shown below:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Land

- a) Sherry Klein Successor in Interest to Agnus Klein, date of loss 2/5/04
- b) Sherry Klein Wrongful Death of Father Howard C. Klein, date of loss 2/5/04
- c) Sherry Klein Wrongful Death of Mother Agnus B. Klein, date of loss 2/5/04
- d) Sherry Klein, Executor of Estate of Howard C. Klein, Successor in Interest to Agnus Klein, date of loss 2/5/04
- e) Sherry Klein Wrongful Death of Brother Howard Blair Klein, date of loss 2/5/04
- f) Tim Vallem, date of loss 7/94 to current

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

H-3 Appointments – None

H-4 Miscellaneous – None

I. REGULAR CALENDAR

I-1 “Approve removal of left-turn restriction on Lilac Street at Eilers Lane”

Paula Fernandez, Senior Traffic Engineer, reported that Public Works received a petition with over 80 signatures from residents requesting the removal of the left-turn restriction on Lilac Street and Eilers Lane. Staff mailed the staff report for this item to all residents of Eilers Lane, as well as Inglewood Drive petitioners. The posted speed limit on Eilers Lane is 30 mph, the prima facie speed limit on Lilac Street is 25 mph, and Lower Sacramento Road is posted at 35 mph. Currently the traffic volume on Eilers Lane is 240 vehicles per day. She reminded Council of previous actions related to this matter:

- September 1987 – Residents of Eilers Lane requested that the street be closed. Council denied the request and approved the installation of the left-turn restriction that is currently in place;
- Spring 1989 – The chestnut bridge was opened and the traffic volume increased on Woodhaven and Chestnut and decreased on Lilac Street;
- In 1990 – Staff restudied Lilac Street and Eilers Lane at the request of Council; no action was taken; and
- October 1997 – Staff received a petition with over 30 signatures of residents wanting to remove the left-turn restriction; no action was taken.

Ms. Fernandez summarized that Public Works has received 13 formal requests and two petitions since the installation of the left-turn restriction in September 1987. Staff recommends that Council approve the request to remove the left-turn restriction on Lilac Street at Eilers Lane.

PUBLIC COMMENTS:

- Steve Hennecke distributed a 19 page packet of information (filed) to Council and stated that he represented a group of residents on Eilers Lane who were opposed to the removal of the sign. He expressed frustration with the lack of police presence and enforcement of traffic laws in the northwest corner of Lodi. Referencing Council minutes of March 17, 1993, he noted that Council at that time had recommended the left-turn restriction be made similar to Fairmont Avenue and Kettleman Lane. Mr. Hennecke reported that it had never been done.

In response, Ms. Fernandez confirmed that the island is painted; it is not raised concrete as was done on Fairmont Avenue and Kettleman Lane.

Mr. Hennecke anticipated that when the Woodbridge school reopens as an elementary school there would be younger children in the area and traffic would increase. He noted that the primary concern of those he represents is the safety of the children and neighborhood. He felt that the 30 mph speed limit on Eilers Lane was too high. He acknowledged that Woodhaven Lane can be a challenge to exit, but felt there was no logic in changing street designs making Eilers Lane more dangerous. He recommended that Council lower the speed limit on Eilers Lane to 25 mph, increase police presence and traffic enforcement, construct a concrete island to keep the left-turn restriction sign intact, and add no-parking zones on Woodhaven to allow for increased visibility.

- Lance Selkirk stated that when school is in session during the hours of 7:45 to 8:15 and 2:45 to 3:15, the traffic is very heavy. He believed that, in a year, when the elementary school opens it will increase the number of buses and parents delivering and picking up their children.
- Steve Nilssen stated that turning left onto Woodhaven Lane is becoming prohibitive. Referencing Council minutes of June 1, 1988, Mr. Nilssen reminded Council that a resolution was adopted establishing no-parking zones on Woodhaven Lane north of Eilers Lane. He recommended that it be done, as well as placing speed bumps on Eilers Lane. He recalled that there was an island at one time; however, the City removed it.
- Dori Mann stated that the problem that existed when the left-turn restriction sign was placed, no longer exists, and it is now obsolete and should be removed.
- Cindy Rudow-Smith commented that the area is being developed with more residential construction. She suggested that joint communication take place in the future between the residents, Lodi Unified School District, and the City regarding changes to the flow of traffic in front of the school. She was in favor of removing the left-turn restriction on Lilac Street at Eilers Lane.

In reply to Mayor Pro Tempore Beckman, Public Works Director Prima stated that both Police Chief Adams and Fire Chief Pretz were opposed to undulations on streets, due to the difficulty they pose for emergency equipment.

In answer to Council inquiries, Ms. Fernandez stated that she would look into why the no-parking zones were not placed on Woodhaven Lane. She did not believe that the traffic volume would be affected by eliminating the left-turn restriction.

Mayor Hansen stated that he would ask the Police Department to increase traffic enforcement in the area.

MOTION:

Council Member Howard made a motion, Beckman second, to approve the removal of the left-turn restriction on Lilac Street at Eilers Lane.

DISCUSSION:

Mayor Hansen felt that the left-turn restriction was a traffic mitigation that had been in place for a long period of time, and had its purpose.

VOTE:

The above motion carried by the vote shown below:

Ayes: Council Members – Beckman, Hitchcock, and Howard

Noes: Council Members – Mayor Hansen

Absent: Council Members – Land

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Hansen, Hitchcock second, voted to continue with the remainder of the meeting following the 11:00 p.m. hour. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Land

I. REGULAR CALENDAR (Continued)

- I-2 “1) Adopt resolution waiving \$10,500 reimbursement from Lodi-Tokay Rotary for costs incurred by the City during the Oooh Ahhh Festival and approving special allocation from the Fund Balance to cover unbudgeted overtime costs and 2) discussion and appropriate action regarding restructuring the agreement between the City of Lodi and the Lodi-Tokay Rotary for the production of the July 4, 2005, Oooh Ahhh Festival”

Interim City Manager Keeter recalled that in August 2003 a meeting took place between the City Manager and representatives of Lodi-Tokay Rotary, at which time an agreement was reached that the Rotary would reimburse the City \$10,500 of its total cost (of \$38,000) for the Oooh Ahhh Festival. She explained that \$38,000 includes \$18,000 from the City’s General Fund for the fireworks and \$1,000 from Electric Utility. In April 2004, the Rotary’s contract and budget for the event was approved by Council. On May 21, 2004, the Rotary asked that the reimbursement amount be reduced to \$9,500 because some of the Parks and Recreation staff time supports the Kiwanis pancake breakfast at the event. On August 19, 2004, the Rotary requested that the City waive the \$9,500 reimbursement, due to a shortfall in revenues.

Ms. Keeter recommended that Council waive the \$10,500 reimbursement from the Lodi-Tokay Rotary for costs incurred by the City during the Oooh Ahhh Festival, appropriate funds from the City’s General Fund, and direct staff to work with the Oooh Ahhh Festival Committee (through the Rotary) to develop a business plan for the 2005 event.

Mayor Hansen noted that Council received a “blue sheet” on this item from Barbara McWilliams who was in favor of the Rotary’s request.

PUBLIC COMMENTS:

- Joanne Mounce reported that the Rotary’s profit and loss statement showed that \$4,000 was made; however, subsequently it paid \$7,000 to volunteers who worked at the event.

- Bob Johnson recalled that the Rotary has been coordinating the Oooh Ahhh Festival for the past ten years, prior to which there had been problems associated with the use of alcohol, etc. He stated that the Rotary “came to the City’s rescue” to salvage a nice tradition and community event. He distributed and reviewed a list (filed) showing contributions that the Rotary makes to the community.

Council Member Howard stated that the reimbursement was part of a contract and agreed upon by both parties.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Hitchcock second, 1) adopted Resolution No. 2004-182 waiving \$10,500 reimbursement from Lodi-Tokay Rotary for costs incurred by the City during the Oooh Ahhh Festival and approving special allocation from the Fund Balance to cover unbudgeted overtime costs and 2) directed staff to work with Lodi-Tokay Rotary to find a way to make the Oooh Ahhh Festival a more streamlined and profitable event. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, and Mayor Hansen

Noes: Council Members – Howard

Absent: Council Members – Land

- I-3 “Discussion and appropriate action regarding termination or restructuring of the New Year’s Eve Kids’ Night Out event”

Interim City Manager Keeter reviewed the options outlined in the staff report and recommended that the New Year’s Eve Kids’ Night Out event be suspended for 2004 and reevaluated annually during the budget preparation. She noted that representatives from the Downtown Lodi Business Partnership, as well as the Chamber of Commerce, expressed an interest in participating as a partner with the City in coordinating the event. In addition, she received communication from Steve Whyte of WhyteHouse Productions who has offered to be the event coordinator. Ms. Keeter reminded Council that the community survey rated the event very low.

PUBLIC COMMENTS:

- Joanne Mounce offered the assistance of Lodi-Tokay Rotary members to work at the event, if another organization coordinated it, as well as providing a cash donation of \$750.
- Pat Patrick, President of the Chamber of Commerce, declined to take over coordination and financial responsibility for the New Year’s Eve Kids’ Night Out event.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, voted to suspend the New Year’s Eve Kids’ Night Out event for 2004 unless another organization wishes to coordinate and fund the event. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Land

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 15, 2004.**

Continued September 1, 2004

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

- Mayor Hansen asked that an item be placed on the September 15, 2004, Council agenda to consider an increase in compensation for the Interim City Manager.

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

None.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:15 a.m., Thursday, September 2, 2004.

ATTEST:

Susan J. Blackston
City Clerk