

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, NOVEMBER 17, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of November 17, 2004, was called to order by Mayor Hansen at 5:03 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

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Conference with Labor Negotiators, Human Resources Director Joanne Narloch and Rick Bolanos, regarding Lodi Police Dispatchers Association pursuant to Government Code §54957.6
- b) 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
- 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
- e) 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
- f) 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
- g) 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
- h) 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
- i) Actual Litigation: Government Code §54956.9(a); one case; City of Lodi v. City of Stockton, et al., San Joaquin County Superior Court, Stockton Branch, Case No. CV024720
- j) Actual Litigation: Government Code §54956.9(a); one case; City of Stockton v. City of Lodi, San Joaquin County Superior Court, Stockton Branch, Case No. CV024859
- k) Actual Litigation: Government Code §54956.9(a); one case; Stockton Family Farmers Coalition v. City of Lodi, et al., San Joaquin County Superior Court, Stockton Branch, Case No. CV024860

C-3 ADJOURN TO CLOSED SESSION

At 5:03 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:43 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:03 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), this item was pulled from the closed session calendar.

In regard to Item C-2 (b), negotiation and settlement direction was sought and obtained.

In regard to Items C-2 (c), (e), (f), (g), (h), (i), (j), and (k), no reportable action was taken in closed session.

In regard to Item C-2 (d), on a vote of 40, direction was given to continue delaying the audit of Envision Law Group. The matter will be reconsidered in January 2005.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of November 17, 2004, was called to order by Mayor Hansen at 7:03 p.m.

Present: Council Members – Beckman, Hitchcock, Howard (arrived at 7:19 p.m.), 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 Bill Sherrill, Lodi Police Chaplains.

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) Elisa Villarreal and Kevin Howard, members of the Greater Lodi Area Youth Commission, acknowledged the Teen of the Month, Amanda Rausch from St. Mary's High School.

D-3 (b) Janet Hamilton, Management Analyst II, presented an overview of the December 2 Hospice Tree Lighting and 9th Annual Parade of Lights events.

D-3 (c) Dennis Lewis, President of Lodi Adopt-A-Child, reviewed its upcoming Christmas program and encouraged everyone to participate.

Interim City Manager Keeter announced that Hans Hansen, Electric Utility Engineering & Operations Manager, would be retiring on Friday and thanked him for his 30 years of service to the City.

E. CONSENT CALENDAR

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

E-1 Claims were approved in the amount of \$5,466,031.07.

- E-2 The minutes of October 6, 2004 (Regular Meeting), November 2, 2004 (Shirtsleeve Session), November 2, 2004 (Special Meeting), November 9, 2004 (Shirtsleeve Session), and November 10, 2004 (Special Meeting) were approved as written.
- E-3 "Approve plans and specifications and authorize advertisement for bids for Lower Sacramento Road Widening, Harney Lane to Kettleman Lane, and adopt resolutions authorizing the City Manager to sign project agreements" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-4 Adopted Resolution No. 2004-241 approving the plans and specifications, authorizing advertisement for bids, and further authorizing the City Manager to award or reject all bids for Blakely Park/Enze Pool plastering, 1050 S. Stockton Street, in an amount not to exceed \$45,000.
- E-5 Adopted Resolution No. 2004-242 approving specifications, authorizing advertisement for bids, and further authorizing the City Manager to award or reject all bids for the purchase of a heavy-duty electric floor scrubber in an amount not to exceed \$12,000.
- E-6 Adopted Resolution No. 2004-243 awarding the purchase of ten self-supporting direct imbedded steel poles to the low bidder, Thomas & Betts, Corp., of Memphis, TN, in the amount of \$160,523.80.
- E-7 Adopted Resolution No. 2004-244 authorizing the City Manager to authorize payment for City of Lodi/Lodi Unified School District Wash Bay Engineering to T. Mitchell Engineers and Associates, of Oakland, in the amount of \$20,000, and appropriating funds in accordance with staff recommendation.
- E-8 Accepted improvements under the "City of Lodi/Lodi Unified School District Compressed Natural Gas Fueling Station Equipment for facility at 820 South Cluff Avenue" contract.
- E-9 Accepted improvements under the "City of Lodi/Lodi Unified School District Compressed Natural Gas Fueling Station Construction for facility at 820 South Cluff Avenue" contract.
- E-10 Adopted Resolution No. 2004-245 accepting improvements at 250 North Cherokee Lane and appropriating funds in the amount of \$17,000 for required reimbursements.
- E-11 Adopted Resolution No. 2004-246 accepting improvements at 847 North Cluff Avenue.
- E-12 Adopted Resolution No. 2004-247 accepting improvements at 233 and 267 North Mills Avenue.
- E-13 Adopted Resolution No. 2004-248 approving Pixley Park Land Exchange Agreement and directing the City Manager and City Clerk to execute the agreement and related improvement agreements on behalf of the City.

PUBLIC COMMENTS:

- Ken Knowles, on behalf of Tokay Radio Control Modelers, thanked Council for its support of the club over the past 33 years. He noted that G-REM has been gracious enough to allow the club to continue to use Pixley Park until construction begins. The club is negotiating with the County for a potential new site on Liberty Road.
- E-14 Adopted Resolution No. 2004-249 approving the improvement agreement for public improvements for 1175 South Guild Avenue, directing the City Manager and City Clerk to execute the agreement on behalf of the City, and appropriating funds in the amount of \$89,410 for the required reimbursements.

- E-15 "Adopt resolution approving improvement agreement for public improvements of Harney Lane Canal Crossing and appropriating funds for applicable reimbursements (\$832,000)" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-16 Adopted Resolution No. 2004-250 approving the application for a Congestion Mitigation and Air Quality Grant for the purchase of ten compressed natural gas Dial-A-Ride vehicles in the amount of \$800,000 to the San Joaquin Council of Governments.
- E-17 Adopted Resolution No. 2004-251 authorizing the City Manager to increase the appropriation by \$51,000 on the professional services agreement with Power Engineers, Inc. for engineering services associated with the Killelea Substation reconstruction project.
- E-18 Adopted Resolution No. 2004-252 authorizing the City Manager to execute the electric service base resource percentage agreement 00-SNR-00327 for Western Area Power Administration between Northern California Power Agency and the City of Lodi.
- E-19 Adopted Resolution No. 2004-253 approving service agreement with Innovative Claims Solutions, Inc. for the administration of worker's compensation claims for the period of October 1, 2004 through September 30, 2005, with an increase of 2.0% over the current annual fee (\$82,154.40).

ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-3 "Approve plans and specifications and authorize advertisement for bids for Lower Sacramento Road Widening, Harney Lane to Kettleman Lane, and adopt resolutions authorizing the City Manager to sign project agreements"

PUBLIC COMMENTS:

The following individuals spoke in favor of a southbound to eastbound left-turn lane at the Sunwest Plaza Shopping Center driveway:

- Brad Clark, representing the Food For Less store;
- John DiNapoli, partner with Browman Development;
- Milton Stirm, owner of Subway sandwich shop;
- Dean Ruiz, of the law office of Hakeem, Ellis, and Marengo, spoke on behalf of Food For Less;
- David Knox, partner in Applebee's restaurant;
- Dan McNeer, Property Manager for Browman Development, who submitted letters from J.C. Penney Company, Hollywood Video, and Strings Italian Café (all filed); and
- Darryl Browman of Browman Development.

Public Works Director Prima displayed overhead maps showing staff's recommendation as outlined in the staff report, and an overhead showing an alternative design as proposed by Browman Development with a left-turn lane. He acknowledged that the left-turn lane alternative meets design standards as long as the design speed is lowered from 60 mph to 45 mph. In conjunction with approval of a left-turn lane he asked Council to also consider the following: 1) a provision for additional cost of design and construction; 2) dedication of additional right of way on the west side of Lower Sacramento Road, 3) removal of four parking spaces including one handicapped space on the south side, and 4) elimination of left turn into first (west) aisle. Mr. Prima stated that if all these recommendations were approved he would be supportive of the left-turn lane request; however, he noted that it may need to be removed in the future if traffic changes warranted it.

Fred Choa of Fehr & Peers Associates Inc., the transportation sub-consultants on the Lower Sacramento Road Widening Project, reported that based on cumulative build out of the City of Lodi, surrounding San Joaquin County, the development that is proposed on Century Boulevard and Harney Lane – year 2025 conditions arrive at certain traffic volumes for the intersection. All the approaches to the intersection at Lower Sacramento Road and Kettleman Lane would have dual lefts. The required stacking distance for the northbound left-turn required the dual left turns and pocket length to serve cumulative traffic conditions.

Mayor Hansen and Council Member Howard disclosed that they met with Darryl Browman prior to the meeting.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously took the following actions:

- Adopted Resolution No. 2004-254 approving the plans and specifications and authorizing advertisement for bids for Lower Sacramento Road Widening, Harney Lane to Kettleman Lane, and authorizing the City Manager to sign the San Joaquin Council of Governments Measure K Construction and Construction Management Cooperative Agreement for Lower Sacramento Road improvements and future amendments;
- Adopted Resolution No. 2004-255 authorizing the City Manager to sign the San Joaquin County Cooperative Agreement for the construction and maintenance of Lower Sacramento Road and future amendments; and
- Approved the southbound to eastbound left-turn lane at Sunwest Plaza Shopping Center driveway with the following stipulations:
 - Reduction in design speed from 60 mph to 45 mph.
 - Provision for additional cost of design and construction.
 - Dedication of additional right of way on west side of Lower Sacramento Road.
 - At driveway: 1) parking space removal (four spaces, including one handicapped space on south side) and 2) turn restriction/raised bumpers – eliminate left turn into first (west) aisle.

Council Member Howard asked staff to consider adding 20-minute parking signage or another handicap parking location on the opposite side of Subway.

Mayor Pro Tempore Beckman asked that the left-turn lane be revisited after the traffic light is installed and development of the southwest corner is completed.

Council Members Hitchcock and Land agreed with Mr. Beckman's comment and felt that it should be changed if safety becomes an issue.

- E-15 “Adopt resolution approving improvement agreement for public improvements of Harney Lane Canal Crossing and appropriating funds for applicable reimbursements (\$832,000)”

At the request of Council Member Hitchcock, Public Works Director Prima described the process for reimbursement for construction of facilities as outlined in Lodi Municipal Code Section 15.64.080. He explained that in this case the canal crossing was a major cost element that was not directly linked to the project.

PUBLIC COMMENTS:

- Steve Pechin, of Baumbach and Piazza, explained that the funds to build the canal crossing had been collected from all the developments in the area, as it had been in the fee program for many years.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Land second, unanimously adopted Resolution No. 2004-256 authorizing the following actions:

1. Approving the improvement agreement for the Harney Lane canal crossing improvements and directing the City Manager and City Clerk to execute the improvement agreement on behalf of the City; and
2. Appropriating funds in the amount of \$832,000 for applicable reimbursements.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

RECESS

At 9:00 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 9:10 p.m.

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 a development agreement between the City of Lodi and GFLIP III, L.P., relating to the development known as Electronic Display Sign to be located at 1251 South Beckman Road.

Community Development Director Bartlam recalled that in April Council first conducted a public hearing relative to an appeal filed by Key Advertising to the Planning Commission's decision to deny a use permit and variance. At that time, it was explained to Council the findings necessary in order for the variance to be approved. An alternative was also discussed that would create a development agreement that would allow the sign to move forward without violating the City's zoning ordinance. The proposal before Council is for a 75 foot tall electronic display sign that would be built on the north end of the existing Dodge dealership next to the Kia building. It would advertise the Geweke Auto Group in a standard sign display and have a changeable electronic display message board. The sign would be 480 square feet per face. In April, Dale Gillespie, representing Key Advertising and the Geweke Auto Group, suggested that it would be willing make a number of concessions in order to have the sign approved. The properties included in the development agreement include: 1) the Dodge/Chrysler dealership, 2) the vacant parcel across the street, 3) the Toyota dealership, 4) C-Basin, and 5) the Recreational Vehicle (RV) dealership. The agreement contemplates that there would be no further freeway signs on those parcels, the removal of the existing Toyota freeway sign, and sets an allowance for the height of future monument signs. The agreement provides for the use of the sign by community organizations for 10% of the display period and would also participate in the Amber Alert program. The agreement requires the removal of the RV dealership sign, to which Mr. Gillespie is opposed. The Planning Commission considered and recommended approval of the agreement on October 27.

Council Member Howard was not in favor of the time and temperature being displayed and felt that all of the advertising time should be devoted to promoting the dealerships.

Hearing Opened to the Public

- Dale Gillespie acknowledged that he contacted all Council Members prior to this meeting and asked that they adopt the development agreement *without* the requirement to remove the RV dealership sign. He explained that over 60% of RV sales come from

outside the Lodi/Stockton area and they are marketed differently than automobiles. His firm is willing to refurbish and re-clad the RV sign so it will have a uniform appearance to the new sign being erected. In response to Ms. Howard's comments, Mr. Gillespie was not opposed to dispensing with the time and temperature display if Council desired; however, he felt that the community service displays would be beneficial.

- Dennis Haugan, Planning Commissioner, stated that the staff report for this item includes more information than the Commission had when it considered the matter on October 27. He believed that Mr. Gillespie's request is valid and reasonable and he encouraged Council to approve the development agreement *without* the requirement to remove the RV sign.

Public Portion of Hearing Closed

MOTION:

Mayor Pro Tempore Beckman made a motion, Land second, to adopt Resolution No. 2004-257 approving the development agreement, with the exception that the RV sign that currently exists be retained, between the City of Lodi and GFLIP III, L.P., relating to the development known as Electronic Display Sign to be located at 1251 South Beckman Road, and further authorizing the City Manager to execute Development Agreement No. 04-01 on behalf of the City of Lodi

DISCUSSION:

Council Member Hitchcock voiced support for the recommendation of the Planning Commission and staff.

Council Member Howard asked that the maker of the motion consider removal of the time and temperature display from the electronic sign, to which Mayor Pro Tempore Beckman stated that he preferred to give the option to the sign owner.

Mayor Hansen favored retaining the time and temperature display.

At the request of Mayor Pro Tempore Beckman, Mr. Gillespie clarified that his firm would re-clad the two RV sign posts in a material that would match the new sign in color and finish. New cladding would be added around the message areas to give it an aesthetically similar look to the new sign.

MOTION AMENDED / VOTE:

Mayor Pro Tempore Beckman amended his motion to include a requirement that the RV sign be refurbished. Council Member Land agreed to the amended motion. The motion carried by the following vote:

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

Noes: Council Members – Hitchcock

Absent: Council Members – None

- 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 an appeal received from Key Advertising, Inc., regarding the Planning Commission's decision to deny the request of Key Advertising for a Use Permit to allow a 75-foot-high electronic display sign and a Variance to double the maximum allowable sign area from 480 square feet to 960 square feet to be located at 1251 South Beckman Road.

Dale Gillespie withdrew his appeal of the February 11, 2004 Planning Commission decision to deny a use permit and variance request.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously accepted the withdrawal of the appeal by Dale Gillespie.

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 – None

I. REGULAR CALENDAR

I-1 “Adopt resolution approving addendum #3 to Lodi Boys and Girls Club City lease to accommodate F&M Bank financing”

NOTE: Due to a potential conflict of interest related to his employment with Farmers and Merchants Bank, Council Member Land abstained from discussion and voting on this matter and vacated his seat at the dais.

Interim City Manager Keeter noted that the Boys and Girls Club is located at Blakely Park on City-owned property. The City has a lease agreement with the Boys and Girls Club. In October 1999 the Boys and Girls Club entered into a loan agreement with Farmers and Merchants Bank. The bank required that the Club have an addendum to the City’s lease agreement securing the debt on the loan. The loan was secured through the Weybret Trust. The payments are made directly from the Weybret Trust to F&M Bank, essentially paying off the mortgage for the Club. The amount in 1999 was \$373,000 and it has been paid down to \$165,000. Ms. Keeter stated that the Boys and Girls Club is going through financial challenges at this time. The Club has a line of credit with the Bank of Lodi for \$100,000. The Club now proposes to take that line of credit to F&M Bank who would pay off the Bank of Lodi and provide them with an additional \$50,000. F&M Bank is agreeable to this arrangement on the condition that the loan is secured/guaranteed by the City. Ms. Keeter pointed out that Lease Addendum No. 2 guaranteed a capital project (a building), whereas Lease Addendum No. 3 is for \$315,000 and is “more of an operating budget.” If the Club defaults on the loan, the City would take over the building and the loan payments. F&M Bank has stated that the \$150,000 loan would be for a term of five or seven years with a monthly payment between \$2,100 to \$2,800 per month.

Council Member Howard noted that Addendum No. 2, section 3, stipulates that a new tenant must be a qualified 501(c)(3) tax exempt/non-profit organization. She felt that the City should have the option to decide on the tenant and asked that this be changed accordingly in Addendum No. 3.

PUBLIC COMMENTS:

- Richard Jones, President and Chief Executive Officer of the Boys and Girls Club, reported that over the past three years the Club has had operating budgets decrease by more than \$200,000. The line of credit is needed for those times in the year when fundraisers or special events do not make their goals, or if contributions continue to decline. The line of credit with the Bank of Lodi could be called as early as January 2005. If the request is approved tonight the Club will pay off the \$100,000 line of credit at the Bank of Lodi and it will become a five- to seven-year loan with F&M Bank with an additional \$50,000 revolving line of credit. He felt that the Club would be “on stable ground” with the proposed loan. He noted that the Board of Directors recently hired a grant writer, which he hoped would help the financial situation. He explained that two years ago the Bo Katzakian Foundation was created. To date, the Foundation has raised \$300,000. The Club receives 5% of the Foundation’s investments.

In answer to Council Member Howard, Mr. Jones reported that the Community Partnership for Families pays the Club \$2,500 each month for rent of a portion of the facility.

Council Member Hitchcock agreed with Ms. Howard's previous suggestion regarding elimination of language specifying that a tenant of the building be a non-profit organization.

City Attorney Schwabauer suggested the following amendment to section 3 of the Addendum:

In the event of default by Club, which results in Club being unable to continue to occupy the premises and improvements pursuant to the lease, City shall forebear from declaring an abandonment or cessation of use under the lease. City will instead, in coordination with Bank and the Weybret Trust, seek a new tenant for the premises and improvements. Said new tenant must be a qualified 5019c)(3) tax exempt non-profit organization and occupy the facilities within 90 days of cessation of occupancy by Club. City shall make interest-only payments on the referenced loan for 90 days following cessation of occupancy of Club. If no tenant is in place as described above, City shall, at its own option, either assume the loan or pay off the balance owing on the loan. In either case, City shall then have sole ownership and control of the improvements.

Mayor Pro Tempore Beckman pointed out that this request would expand the risk and liability to the City for \$150,000. He commented that his views on government charity were well known and he was opposed to this request for reasons articulated previously.

MOTION/ VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, adopted Resolution No. 2004-258 approving addendum #3, as amended, to Lodi Boys and Girls Club City lease to accommodate F&M Bank financing. The motion carried by the following vote:

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

NOTE: The following items were discussed and acted upon out of order.

- I-3 “Authorize temporary modular building to be moved to the Lodi Animal Shelter and authorize the City Manager to approve a Memorandum of Understanding with People Assisting Lodi Shelter”

Jeannie Biskup, Police Volunteer Supervisor, explained that People Assisting Lodi Shelter (PALS) was a non-profit group of citizens whose goal is to assist the shelter staff in housing adoptable cats and in aiding and increasing pet adoptions. PALS will pay monthly rent to Meehleis Modular Buildings. The building will help to alleviate problems with disease control at the shelter. Electric Utility and Public Works will facilitate moving the building from its current location at the Kofu Skate Park.

PUBLIC COMMENTS:

- Sharon Sims introduced herself as a Sacramento attorney representing PALS on a pro bono basis. She stated that the modular building is intended as an adoption and education center. It is a way to remove healthy adoptable cats from the shelter to assist with disease control. PALS does not at this time have enough volunteers to staff the adoption facility on a full-time basis and will be depending on City staff to serve in a back up capacity at times. The animals would remain the property of the City.

Council Member Land emphasized that Council needs to find a way to build a new animal shelter and believed it could produce revenue for the City if it were planned right.

MOTION:

Mayor Hansen made a motion, Beckman second, to authorize a temporary modular building to be moved to the Lodi Animal Shelter and authorize the City Manager to approve a Memorandum of Understanding with People Assisting Lodi Shelter.

DISCUSSION:

In response to Council Member Hitchcock, Interim City Manager Keeter reported that Meehleis Modular Buildings has offered to move the building at no cost. The City will make utility payments. She confirmed that no additional staff would be hired to operate the adoption and education center.

Electric Utility Director Vallow stated that the pad to accommodate the modular building would later be used as a "lay down area" for the Utility's equipment once the new animal shelter is built. He stated that it was a cost already budgeted for work that would be done in preparation for the new Municipal Service Center east campus.

Referencing the "blue sheet" Memorandum of Understanding (filed), City Attorney Schwabauer stated that he met with PALS representatives previously and had reviewed the agreement. He acknowledged that it would open the City to liability for acts that PALS volunteers engaged in on the shelter premises, for which he asked for a reciprocal indemnity clause and insurance in the agreement. The City would agree to take over the rent for the building if PALS vacated it and it remained on City property; however, the City is not obligated to operate it.

VOTE:

The above motion carried by a unanimous vote.

- I-2 "Adopt resolution approving encroachment agreement and reimbursable costs and accepting improvements for Woolworth Place Alley, 115 South School Street (\$50,000)"

Public Works Director Prima reported that the owners of the old Woolworth building have completed work on a major upgrade of the building and adjacent alley. He described three reimbursement options which were outlined in the staff report and recommended that Council grant the full amount remaining in the Business Attraction Fund (\$50,000) and close the program.

Community Development Director Bartlam estimated that the owners, Downtown Partners, spent \$100,000 on alley public improvements.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously adopted Resolution No. 2004-259 approving the encroachment agreement and reimbursable costs, by granting the remaining \$50,000 left in the Business Attraction Fund and closing the program, and accepting improvements for Woolworth Place Alley, 115 South School Street.

- I-4 "Adopt resolution approving Treadwell and Rollo Task Order for additional groundwater monitoring wells"

Public Works Director Prima reported that previous work done in the Central Plume revealed that the plume is further south and deeper than was previously understood. He stated that the following additional Central Plume investigative work is needed:

Planning	\$12,000
Field Investigation:	
2 CPT wells	\$28,000
2 deeper groundwater sampling wells	\$164,000
13 additional monitoring wells	\$177,000
Data compilation and report preparation	\$30,000
Contingencies	\$25,000

Mr. Prima noted that the total amount of \$436,000 would be split equally between the Water and Wastewater Funds.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Hansen second, unanimously adopted Resolution No. 2004-260 approving Treadwell and Rollo Task Order for additional groundwater monitoring wells in the amount of \$436,000.

- I-5 "Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and other various cases being handled by outside counsel and approval of Special Allocation covering general litigation matter expenses"

City Attorney Schwabauer reviewed a "blue sheet" staff report (filed) that itemized invoices totaling \$306,836.67 from legal firms. He pointed out that Matter Nos. 2001 and 2002 for \$72,000 were related to the Lehman Brothers case. Matter No. 8002 for \$201,029.74 pertains to the M&P case. The firm Kronick, Moskovitz, Tiedemann & Girard (KMTG) submitted two invoices for \$15,756.86 and \$7,882.96 for work related to the Stockton Sphere of Influence matter. KMTG also billed for \$2,686.90 for work related to the Phelps case, which Mr. Schwabauer stated he would be transferring to Deputy City Attorney Magdich. KMTG submitted an invoice in the amount of \$1,726.76 for general advice given to Mr. Schwabauer.

In answer to Mayor Hansen, Finance Director Krueger confirmed that there were sufficient cash balances in the Water, Wastewater, and General Funds to cover the invoices.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously approved the expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and other various cases being handled by outside counsel in the amount of \$306,836.67 and approved Special Allocation covering general litigation matter expenses in the amount of \$4,413.66, all as shown below:

<u>Matter No.</u>	<u>Invoice No.</u>	<u>Amount</u>	<u>Matter No.</u>	<u>Invoice No.</u>	<u>Amount</u>
2001	84159	\$ 41,865.28	11233.001	216073	\$ 1,726.76*
		(- 4,097.50)			
2002	84164	\$ 31,889.88	11233.003	216073	\$ 804.89
8001	84241	\$ 500.93	11233.010	216073	\$ 2,686.90*
8002	84146	\$201,029.74	11233.017	216073	\$ 250.84
		(- 2,521.00)			
8003	84247	\$ 3,272.33	11233.022	216073	\$ 15,756.86
8005	84246	\$ 358.30	11233.023	216073	\$ 7,882.96
8007	84244	\$ 5,332.00			\$ 29,109.21
8008	84245	\$ 97.50			
		\$277,727.46			

*Special Allocation

FUNDING: Water \$151,211.50
Wastewater \$151,211.51
General Fund \$4,413.66

GRAND TOTAL OF ALL INVOICES:
\$306,836.67

J. ORDINANCES

None.

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

- Council Member Howard noted that tonight was her last full meeting as a City Council Member. Ms. Howard stated that she cherished the last four years and felt privileged to serve as a Member of the Lodi City Council. Ms. Howard commented that she has returned her notebook computer to the City for use by a newly elected Council Member. She felt that the conversion of the paper Council agenda packet to an electronic format has been one of the best improvements that had taken place in recent years. She congratulated City Clerk Blackston for having reached the goal she set and thanked her staff for their work in accomplishing this project, which has advanced the City in many ways.
- Council Member Land stated that during the past eight years he served on the Council he found City staff to be professional and dedicated, even during difficult times. He asked appointees to relay his message to all employees.
- Mayor Hansen wished everyone a happy Thanksgiving Day. He asked Interim City Manager Keeter to follow up on weed abatement at the intersection of Hutchins Street and Lodi Avenue.

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 11:04 p.m.

ATTEST:

Susan J. Blackston
City Clerk