

**CITY OF LODI
SPECIAL JOINT INFORMAL INFORMATIONAL
MEETING "SHIRTSLEEVE" SESSION
WITH THE LODI IMPROVEMENT COMMITTEE
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, SEPTEMBER 11, 2007**

A Special Joint Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council and Lodi Improvement Committee was held Tuesday, September 11, 2007, commencing at 7:00 a.m.

A. ROLL CALL

Present: Council Members – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

Absent: Council Members – None

Present: Lodi Improvement Committee Members – Forkas, Jarrett, Ortiz, Takeuchi,
Yadav, and Chairperson St. Yves

Absent: Lodi Improvement Committee Members – Lesan and Spinelli

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. TOPIC(S)

B-1 "Discussion of Items of Mutual Concern"

City Manager King briefly introduced the subject matter.

Lodi Improvement Committee Chairperson, Eileen St. Yves, provided some introductory remarks. General topics of discussion included homelessness, affordable housing, shopping carts, Cherokee Lane, and Census dress rehearsal.

In response to Mayor Johnson, Chairperson St. Yves stated Lawrence Park is more of a problem during the evening because there is a larger gathering of homeless individuals and the new bus shelter is being used for sleeping purposes.

In response to Mayor Johnson, Chairperson St. Yves stated the church contributes to the homeless problem on Tuesday evenings primarily.

In response to Council Member Hitchcock, Chairperson St. Yves stated she is not sure if the problem of homelessness would be fixed if the bridge problem was corrected and the Police Department and Caltrans are working in the area on an ongoing basis.

In response to Council Member Hitchcock, Chairperson St. Yves stated the hours of use might be adjusted to address some of the park concerns. City Attorney Schwabauer stated park hours vary from park to park, are generally from dusk to dawn, and are established as posted. Mr. Schwabauer also stated the hours may be changed if necessary.

Committee Member Jarrett suggested researching solutions for assisting the homeless population on a long-term basis rather than focusing on enforcement mechanisms only.

City Manager King provided an overview of the 2008 Census dress rehearsal to be held in San Joaquin County. Mr. King specifically discussed utilizing the expertise of the Lodi Improvement Committee in conjunction with the Census request for a committee to assist with public outreach efforts.

Census Bureau representative, Jaime Hernandez, provided an overview of the requested partnership with the City for the 2008 dress rehearsal. Specific topics of discussion included public outreach, space for training, and direction for the Lodi Improvement Committee regarding the same.

In response to Council Member Hansen, Mr. Hernandez stated there are a variety of ways the City can partner with the Census Bureau including efforts related to public outreach, training facilities, and media usage. City Manager King stated the Census Bureau to date has requested the City's assistance with a full count committee.

In response to Mayor Johnson, Chairperson St. Yves stated Barbara Fary of the Census Bureau will be attending the Lodi Improvement Committee meeting on October 2, 2007, to provide additional information. She urged the City Council and public to attend.

In response to Council Member Hitchcock, Committee Member Jarrett stated the St. Mary's dining room and adjacent building in Stockton are an example of potential solutions to homelessness. Mr. Jarrett stated the Salvation Army has changed its direction and now serves as more of a transitional facility rather than a homeless shelter. Discussion ensued between Mr. Jarrett, Mayor Johnson, and Mayor Pro Tempore Mounce regarding options to address the homelessness in the City and the City's obligation regarding the same.

In response to Committee Member Takeuchi, Mayor Johnson stated it would be beneficial for the Committee to be involved with the Census because the Committee already reviews some of the general subject matter and it would prevent the formation of another committee for the sole purpose of the Census. City Manager King concurred, stating that it is a good opportunity for the City to engage in meaningful work and be visible.

Chairperson St. Yves provided general comments regarding affordable housing options within the City. Discussion ensued between Chairperson St. Yves and Council Member Hansen regarding the location of the potential affordable housing project.

In response to Mayor Pro Tempore Mounce, City Manager King stated staff can arrange for a bus tour to the affordable housing site if it is so desired.

Council Member Hitchcock requested copies of all of the affordable housing proposals by Friday. Community Development Director Hatch stated staff was planning to present summaries of all the proposals and will provide copies of the proposals themselves as well.

In response to Mayor Johnson, Mr. Hatch stated the location for each of the proposals is the same.

Chairperson St. Yves provided some general comments regarding abandoned shopping carts. Discussion ensued between Chairperson St. Yves, Mayor Johnson, Mayor Pro Tempore Mounce, and Council Member Hitchcock regarding partnering options available with the businesses, contract services for City sweeping of shopping carts, and the obligations of individual stores to maintain shopping carts.

City Manager King provided an overview of varying policies and regulations associated with shopping carts, homelessness, and affordable housing. In response to Mayor Pro Tempore Mounce, Chairperson St. Yves stated Cherokee Lane should probably be a top priority and the Committee does a prioritizing and goal setting workshop every year in April.

In response to Mayor Johnson, City Attorney Schwabauer stated the homeless individuals do have a constitutional right to beg; although, ordinances addressing aggressive solicitation are permissible. Mr. Schwabauer also stated he would need to research staff's ability to retrieve shopping carts from private property, but common areas were likely permissible.

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Constance Zweifel spoke of her concerns regarding abandoned shopping carts and PG&E and City barricades being utilized by children in her neighborhood. She also requested a listing of bus stops.

Myrna Wetzel stated the poor will always be among the community and the issue is how to work with them.

Chairperson St. Yves thanked the Council for their consideration. Committee Member Yadav thanked the Council for attending the Committee's meetings.

Council Member Hansen requested the Lawrence Park postings be reviewed as necessary.

Council Member Hitchcock and Mayor Johnson suggested reviewing successful enforcement activity and centralized locations in other communities in regards to homelessness.

C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None

D. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at 8:25 a.m.

ATTEST:

Randi Johl
City Clerk

Lodi Improvement Committee & Lodi City Council

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ISSUES OF MUTUAL CONCERN

Lodi Improvement Committee's Proposed Topics for Discussion

1. Homeless
2. Affordable Housing
3. Shopping Carts
4. Cherokee Lane

City Manager's Proposed Topics for Discussion

1. 2008 Census Dress Rehearsal



MEMORANDUM, City of Lodi, Community Development Department

To: Randy Hatch, Community Development Director
From: Joseph Wood, Community Improvement Manager
Date: August 27, 2007
Subject: Shopping Cart Issues

Regarding our ability to place requirements on retail stores to equip their shopping carts with locking wheels, the State Legislature has determined that restrictions and regulations pertaining to shopping carts is a matter of statewide concern and accordingly, they have established uniform guidelines within the Business and Professions Code for local government agencies to follow when crafting local ordinances.

Having these special wheel-locking devices is not one of the requirements covered under those uniform guidelines. Most store owners opt for such a feature on their carts just to keep from having to abide by the local regulations, as several jurisdictions provide an exception for retailers who equip their carts.

These guidelines allow for us to establish a local ordinance that requires retail store owners to mark their carts as follows:

- Clearly identify the owner of the cart,
- Notifies the public of the procedure for authorized removal of the cart from the premises,
- Notifies the public that unauthorized removal is a violation of state law,
- Lists a valid telephone number or address for returning the cart or contacting the retailer for retrieval.

Likewise, the guidelines establish procedures for the local government agencies to adopt which include:

- Provides three business day waiting period after cart owner has been notified before City can retrieve the cart,
 - Unless the cart impedes emergency services,
- Allows for local agency to recover actual costs for impounding carts,
- Requires that carts be held at a location that is reasonably convenient to the cart owner and is accessible six hours of each business day,
- Allows local agencies to fine cart owners no more than \$50 for each occurrence in excess of three within a six-month period.

A copy of the Business and Professions Code is attached for your review. I am prepared to forward a draft ordinance to the City Attorney after we finish the development and adoption of the graffiti ordinance.

Attachments

CALIFORNIA CODES
BUSINESS AND PROFESSIONS CODE
SECTION 22435-22435.8

22435. As used in this article:

(a) "Shopping cart" means a basket which is mounted on wheels or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

(b) "Laundry cart" means a basket which is mounted on wheels and used in a coin-operated laundry or drycleaning retail establishment by a customer or an attendant for the purpose of transporting fabrics and the supplies necessary to process them.

(c) "Parking area" means a parking lot or other property provided by a retailer for use by a customer for parking an automobile or other vehicle.

22435.1. The provisions of Section **22435.2** shall apply when a shopping cart or a laundry cart has a sign permanently affixed to it that identifies the owner of the cart or the retailer, or both; notifies the public of the procedure to be utilized for authorized removal of the cart from the premises; notifies the public that the unauthorized removal of the cart from the premises or parking area of the retail establishment, or the unauthorized possession of the cart, is a violation of state law; and lists a valid telephone number or address for returning the cart removed from the premises or parking area to the owner or retailer.

22435.2. It is unlawful to do any of the following acts, if a shopping cart or laundry cart has a permanently affixed sign as provided in Section **22435.1**:

(a) To remove a shopping cart or laundry cart from the premises or parking area of a retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(b) To be in possession of any shopping cart or laundry cart that has been removed from the premises or the parking area of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(c) To be in possession of any shopping cart or laundry cart with serial numbers removed, obliterated, or altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(d) To leave or abandon a shopping cart or laundry cart at a location other than the premises or parking area of the retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(e) To alter, convert, or tamper with a shopping cart or laundry cart, or to remove any part or portion thereof or to remove, obliterate or alter serial numbers on a cart, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(f) To be in possession of any shopping cart or laundry cart while

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that cart is not located on the premises or parking lot of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

22435.3. Any person who violates any of the provisions of this article is guilty of a misdemeanor.

The provisions of this section are not intended to preclude the application of any other laws relating to prosecution for theft.

22435.4. This article shall not apply to the owner of a shopping cart or laundry cart or to a retailer, or to their agents or employees, or to a customer of a retail establishment who has written consent from the owner of a shopping cart or laundry cart or a retailer to be in possession of the shopping cart or laundry cart or to remove the shopping cart or laundry cart from the premises or the parking area of the retail establishment, or to do any of the acts specified in Section **22435.2**.

22435.5. (a) In any civil proceeding, any shopping cart or laundry cart which has a sign affixed to it pursuant to Section **22435.1** shall establish a rebuttable presumption affecting the burden of producing evidence that the property is that of the person or business named in the sign and not abandoned by the person or business named in the sign.

(b) In any criminal proceeding, it may be inferred that any shopping cart or laundry cart which has a sign affixed to it pursuant to Section **22435.1** is the property of the person or business named in the sign and has not been abandoned by the person or business named in the sign.

22435.7. (a) The Legislature hereby finds that the retrieval by local government agencies of shopping carts specified in this section is in need of uniform statewide regulation and constitutes a matter of statewide concern that shall be governed solely by this section.

(b) A shopping cart that has a sign affixed to it in accordance with Section **22435.1** may be impounded by a city, county, or city and county, provided both of the following conditions have been satisfied:

(1) The shopping cart is located outside the premises or parking area of a retail establishment. The parking area of a retail establishment located in a multistore complex or shopping center shall include the entire parking area used by the complex or center.

(2) Except as provided in subdivision (i), the shopping cart is not retrieved within three business days from the date the owner of the shopping cart, or his or her agent, receives actual notice from the city, county, or city and county of the shopping cart's discovery and location.

(c) In instances where the location of a shopping cart will impede emergency services, a city, county, or city and county is authorized

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to immediately retrieve the shopping cart from public or private property.

(d) Any city, county, or city and county that impounds a shopping cart under the authority provided in subdivisions (b) and (c) is authorized to recover its actual costs for providing this service.

(e) Any shopping cart that is impounded by a city, county, or city and county pursuant to subdivisions (b) and (c) shall be held at a location that is both:

(1) Reasonably convenient to the owner of the shopping cart.

(2) Open for business at least six hours of each business day.

(f) A city, county, or city and county may fine the owner of a shopping cart in an amount not to exceed fifty dollars (\$50) for each occurrence in excess of three during a specified six-month period for failure to retrieve shopping carts in accordance with this section. An occurrence includes all shopping carts impounded in accordance with this section in a one-day period.

(g) Any shopping cart not reclaimed from the city, county, or city and county within 30 days of receipt of a notice of violation by the owner of the shopping cart may be sold or otherwise disposed of by the entity in possession of the shopping cart.

(h) This section shall not invalidate any contract entered into prior to June 30, 1996, between a city, county, or city and county and a person or business entity for the purpose of retrieving or impounding shopping carts.

(i) Notwithstanding paragraph (2) of subdivision (b), a city, county, or city and county may impound a shopping cart that otherwise meets the criteria set forth in paragraph (1) of subdivision (b) without complying with the three-day advance notice requirement provided that:

(1) The owner of the shopping cart, or his or her agent, is provided actual notice within 24 hours following the impound and that notice informs the owner, or his or her agent, as to the location where the shopping cart may be claimed.

(2) Any shopping cart so impounded shall be held at a location in compliance with subdivision (e).

(3) Any shopping cart reclaimed by the owner or his or her agent, within three business days following the date of actual notice as provided pursuant to paragraph (1), shall be released and surrendered to the owner or agent at no charge whatsoever, including the waiver of any impound and storage fees or fines that would otherwise be applicable pursuant to subdivision (d) or (f). Any cart reclaimed within the three-business-day period shall not be deemed an occurrence for purposes of subdivision (f).

(4) Any shopping cart not reclaimed by the owner or his or her agent, within three business days following the date of actual notice as provided pursuant to paragraph (1), shall be subject to any applicable fee or fine imposed pursuant to subdivision (d) or (f) commencing on the fourth business day following the date of the notice.

(5) Any shopping cart not reclaimed by the owner or his or her agent, within 30 days of receipt following the date of actual notice as provided pursuant to paragraph (1), may be sold or disposed of in accordance with subdivision (g).

22435.8. This article shall not invalidate an ordinance of, or be

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construed to prohibit the adoption of an ordinance by, a city, county, or city and county, which ordinance regulates or prohibits the removal of shopping carts or laundry carts from the premises or parking area of a retail establishment except to the extent any provision of such an ordinance expressly conflicts with any provision of this article.