

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MAY 20, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of May 20, 2009, was called to order by Mayor Hansen at 5:30 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and Assistant City Clerk Perrin

C-2 Announcement of Closed Session

- a) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters and Conference with Larry Hansen (Labor Negotiator) Regarding City Council Appointees, Pursuant to Government Code §54957.6
- b) Prospective Lease of a Portion of 218 West Pine Street and 211 Oak Street, Lodi; the Negotiating Parties are the City of Lodi, Odd Fellows Hall Association of Lodi, and Beckman Capitol Corporation for Placement of Environmental Cleanup Equipment; Price and Terms are under Negotiation; Government Code §54956.8

C-3 Adjourn to Closed Session

At 5:30 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:30 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:02 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Item C-2 (a) was discussion only.

In regard to Item C-2 (b), negotiating direction was given; no reportable action was taken.

A. Call to Order / Roll call

The Regular City Council meeting of May 20, 2009, was called to order by Mayor Hansen at 7:02 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and Assistant City Clerk Perrin

B. Invocation - Chaplain Phil Orosco, Lodi Police Chaplains

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations - None

D-3 Presentations

a) Presentation Regarding Youth Energy Summit (EUD)

Rob Lechner, Manager of Customer Service and Programs, gave a presentation regarding the Youth Energy Summit.

E. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Hitchcock made a motion, second by Council Member Johnson, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$4,719,354.82 (FIN)

Claims were approved in the amount of \$4,719,354.82.

E-2 Approve Minutes (CLK)

The minutes of May 5, 2009 (Shirtsleeve Session) and May 12, 2009 (Shirtsleeve Session) were approved as written.

E-3 Approve Specifications and Authorize Advertisement for Bids for 500 Tons of Asphalt Materials for Fiscal Year 2009-10 (PW)

Approved the specifications and authorized advertisement for bids for 500 tons of asphalt materials for fiscal year 2009-10.

E-4 Approve Specifications and Authorize Advertisement for Bids for Curb, Gutter, and Sidewalk Replacement Annual Contract for Fiscal Year 2009-10 (PW)

Approved the specifications and authorized advertisement for bids for curb, gutter, and sidewalk replacement annual contract for fiscal year 2009-10.

E-5 Approve Specifications and Advertisement for Bids for Annual Tree Trimming Contract

(Power Line Clearing) for Electric Utility Department (EUD)

Approved the specifications and authorized advertisement for bids for annual tree trimming contract (power line clearing) for Electric Utility Department.

E-6 Adopt Resolution Authorizing a Sole Source Procurement of Engineering Analysis Software from Milsoft Utility Solutions, Inc., of Abilene, TX (\$29,444.06) (EUD)

Adopted Resolution No. 2009-59 authorizing a sole source procurement of engineering analysis software from Milsoft Utility Solutions, Inc., of Abilene, TX, in the amount of \$29,444.06.

E-7 Adopt Resolution Accepting Improvements at 3021 South Cherokee Lane (Blue Shield) (PW)

Adopted Resolution No. 2009-60 accepting the improvements at 3021 South Cherokee Lane (Blue Shield).

E-8 Adopt Resolution Accepting Improvements at 2 East Tokay Street (PW)

Adopted Resolution No. 2009-61 accepting the improvements at 2 East Tokay Street.

E-9 Adopt Resolution Approving Application for CALFED Water Use Efficiency Grant Program from the United States Department of the Interior, Bureau of Reclamation (PW)

Adopted Resolution No. 2009-62 approving application for CALFED Water Use Efficiency Grant Program from the United States Department of the Interior, Bureau of Reclamation.

E-10 Approve Summer Transit Pass Program (PW)

Approved the Summer Transit Pass Program.

E-11 Adopt Resolution Accepting Fire Apparatus from the California Emergency Management Agency and Authorizing the City Manager to Execute the Contract (FD)

This item was pulled from the Consent Calendar by Council Member Johnson.

Council Member Johnson stated he was opposed to accepting the fire apparatus because of the State's conditions of acceptance, which include greater City participation in wildfire suppression efforts throughout the State, and because of the State's poor history in reimbursing City costs, particularly in light of the current financial crisis.

Mayor Hansen stated he would support the request as it would provide a fully equipped vehicle that the City could use as backup to support its older fleet. In addition, if the City responds to a State call, the wear and tear would be on the State's apparatus, rather than on City engines. He acknowledged that the State is slow in reimbursing costs; however, to date the City has received every dollar it has requested.

Council Member Hitchcock echoed some of Mayor Hansen's comments, adding that the City can withdraw from the program if it so chooses.

Council Member Hitchcock made a motion, second by Council Member Mounce, to adopt Resolution No. 2009-66 accepting fire apparatus from the California Emergency Management Agency and authorizing the City Manager to execute the contract.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Mayor Pro Tempore Katakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Johnson

Absent: None

E-12 Adopt Resolution at the Request of the League of California Cities Declaring Fiscal Hardship Due to State's Ongoing Seizure of Local Property Tax Funds for the Educational Revenue Augmentation Fund and its Continued Adoption of Unfunded Mandates (CM)

Council Member Mounce pulled this item and introduced Steven Qualls, representative from the League of California Cities, who provided an update on the State budget and the need for this resolution opposing the State's ongoing seizure of funds from cities.

Steven Qualls reported that the Governor has proposed to take \$2 billion from State property taxes and 141 cities have either adopted a resolution in opposition or have agendized the matter for action. Cities are financially strapped and do not have the tools available to them like the State does. The League of California Cities has created a Website, which includes a link to the legislators, and it is asking individuals, businesses, and organizations to post videos and comments urging the State not to take these funds.

Council Member Mounce announced there will be a conference call with Senator Cogdill tomorrow at 11 a.m. and she urged her fellow Council Members to participate to communicate how this proposal would affect the budget for the City of Lodi.

Council Member Johnson strongly urged citizens to contact their legislators to let them know that this proposal would have a significant impact on the City of Lodi and its services. Mr. Qualls added that this proposal would amount to \$1.2 million for Lodi, and Mr. King stated this represents 8% of Lodi's property tax.

Council Member Mounce made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-67 at the request of the League of California Cities declaring a fiscal hardship due to the State's ongoing seizure of local property tax funds for the Educational Revenue Augmentation Fund and its continued adoption of unfunded mandates.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-13 Adopt Resolution Initiating Proceedings for the Levy and Collection of Assessments, Resolution Approving the Annual Report, and Resolution Declaring Intention to Levy and Collect Assessments for the Lodi Consolidated Landscape Maintenance District No. 2003-1 for Fiscal Year 2009-10; and Set Public Hearing for June 17, 2009 (PW)

Adopted Resolution No. 2009-63 initiating proceedings for the levy and collection of assessments, Resolution No. 2009-64 approving the Annual Report, and Resolution No. 2009-65 declaring intention to levy and collect assessments for the Lodi Consolidated Landscape Maintenance District No. 2003-1 for fiscal year 2009-10; and set public hearing for June 17, 2009.

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Steve Jarrett, Vice Chair of the Lodi Improvement Committee (LIC), read a prepared letter (filed) by LIC Chair Bob Takeuchi regarding the establishment of an Eastside Summit for the improvement and funding of the infrastructure, appearance, and private investment into Lodi's eastside and requesting the appointment of a City Council representative to work with LIC on this effort. Mr. Jarrett requested the matter be placed on a future Council agenda.

Suga Moriwaki distributed to Council a booklet prepared by the San Joaquin Historian regarding Lodi's Japantown and further provided a brief history of Lodi's Japanese community. Ms. Moriwaki requested that the City consider including an historical time line on its Website to include the diverse ethnic communities in Lodi, which have contributed greatly to the culture and economics of this City.

Louise Fassio distributed information regarding rebates for synthetic turf (filed) and urged Council to consider offering such a program in Lodi. In response to Mayor Hansen, Ms. Fassio confirmed that she is involved with the installation of synthetic turf and works for Valley Landscaping and Maintenance. To date, the company has completed four projects in Lodi.

Ann Cerney expressed concern regarding the suggestion of synthetic turf, stating that groundwater is recharged by seepage of rain from the water table and any covering that impedes that process should be taken into consideration.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Johnson commented on a recent meeting of the San Joaquin County Board of Supervisors, at which the Board discussed the allocation of Community Development Block Grant (CDBG) funds. Several disparaging comments were made about the City of Lodi and its decision to become an entitlement city, which puts the City outside of the County's control of CDBG funds, and he expressed disappointment in the implications that were made.

Council Member Mounce announced that the Greater Lodi Area Youth Commission will once again host Teen Lead, which helps foster leadership for young people in Lodi. She provided application packets to each Council Member and encouraged them to share the information. Anyone wishing to participate or be a sponsor was encouraged to contact the Lodi Youth Commission at 333-6800 x2424. Ms. Mounce further reminded Council that the upcoming League of California Cities meeting will be held on June 11 at Wine and Roses; guest speaker will be California State Controller John Chiang. Steven Qualls, League of California Cities representative, added that due to the generosity of local sponsors there will be no charge for dinner.

Council Member Hitchcock requested that the Council decision to install synthetic turf at the Grape Bowl be agendaized for reconsideration. Since the action was taken, she has received further information and feedback and is uncomfortable with the decision that was made. Ms. Hitchcock requested a more detailed report regarding synthetic turf be provided to Council to include cost, cost savings, and any controversy.

Mayor Hansen questioned whether reconsideration of this matter would affect the time line, to which Mr. King responded that the Americans with Disabilities Act improvements should occur in the next month and the new field installation would take place in late 2009 or early 2010. He stated staff will bring in experts to discuss the concerns as well as the costs, life-cycle costs, durability, level of activity, options, etc.

Council Member Mounce requested that staff also provide the pros and cons of the all-weather turf being used for playing fields (i.e. how it affects players, would the field be shut down in times of severe heat, carcinogens from the heated plastic going into the groundwater, etc.). She cited the State of New York, which established a moratorium on turf for playing fields for the entire state.

Mayor Hansen stated he had an opportunity to attend a briefing on a new program offered by Waste Management called "Waste Watch," which is a community service program that provides training to drivers to observe neighborhoods, similar to that of Neighborhood Watch. Mayor Hansen announced that he would adjourn tonight's meeting in memory of Bob Wheeler, former plant manager of General Mills, who passed away on May 16. Mr. Wheeler was a pillar of this community and worked very closely with the City of Lodi. The new Lodi Lake Boat House dedication will take place on Thursday, May 28 at 5:15 p.m. Mayor Hansen provided updates on his various committee meetings, including the San Joaquin Council of Governments, Project Delivery Subcommittee, and Executive Subcommittee, and reported on the I-205 lane widening and a possible lane widening project for 3.5 miles along Highway 99.

H. Comments by the City Manager on Non-Agenda Items

None.

I. Public Hearings

I-1 Public Hearing to Consider Adopting Urgency Ordinance to Extend Interim Ordinance No. 1822, an Uncodified Urgency Interim Ordinance to Establish a Moratorium on the Establishment and Operation of Medical Marijuana Dispensaries (CA)

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 adopting urgency ordinance to extend interim Ordinance No. 1822, an uncodified urgency interim ordinance to establish a moratorium on the establishment and operation of medical marijuana dispensaries.

City Attorney Schwabauer provided a brief report on the request to extend the moratorium on the establishment and operation of medical marijuana dispensaries.

Hearing Opened to the Public

Robin Rushing spoke in support of medical marijuana dispensaries, stating that marijuana is not bad and encouraging Council to look at the matter with compassion.

Bryan Laber stated he represents businesses and clients who travel outside of the area for medical marijuana and that their goal is to bring this to the valley, which would in turn help the local economy. Mr. Laber urged Council to carefully weigh the pros and cons and to move this process along as quickly as possible.

Mr. Schwabauer clarified that the action being requested is only to extend the moratorium. If Council does not continue the moratorium, it would expire and Council would not have the

opportunity to weigh in on the zoning, public health, and community issues.

An unidentified individual questioned how long this process would take, stating case law exists that allows for dispensaries.

Ann Cerney requested further clarification on the requested action to be taken by Council and stated that it was unreasonable to delay a decision when there are people with cancer in need of medical marijuana.

Mr. Schwabauer clarified that the action tonight would not deny patients who are entitled to use medical marijuana. This issue concerns dispensaries, collectives, and cooperatives and where they might locate in the community (i.e. near a school, day care center, etc.), which has yet to be determined by Council. Mayor Hansen stated this action would extend the moratorium another 10 months and 15 days, and Mr. Schwabauer added that it is possible staff could come back sooner with a proposed ordinance.

Public Portion of Hearing Closed

Council Member Mounce asked if the Planning Commission would address the zoning issues, to which Mr. Schwabauer responded that the first step is to research the law on dispensaries and weigh in with an opinion, after which the matter would be forwarded to the Planning Commission.

Council Member Johnson made a motion, second by Council Member Hitchcock, to adopt urgency Ordinance No. 1823 to extend interim Ordinance No. 1822, an uncodified urgency interim ordinance to establish a moratorium on the establishment and operation of medical marijuana dispensaries.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments

a) Post for One Vacancy on the Greater Lodi Area Youth Commission (Adult Advisor) (CLK)

Council Member Hitchcock made a motion, second by Council Member Mounce, to direct the City Clerk to post for the following vacancy:

Greater Lodi Area Youth Commission (Adult Advisor)

Imtiaz (Roger) Khan, term to expire May 31, 2010

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J-3 Miscellaneous

a) Monthly Protocol Account Report (CLK)

Council Member Johnson made a motion, second by Council Member Mounce, to approve the cumulative Monthly Protocol Account Report through April 30, 2009.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

Recess

At 8:25 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 8:38 p.m.

K. Regular Calendar

K-1 Consider Waiving CPI Increase for Water Fund for Fiscal Year 2009/10 and/or Amend Water Rate Schedule as Approved on April 16, 2008 (PW)

City Manager King introduced the subject matter, stating that staff is recommending no change to the water rate schedule this year; however, Council does have the ability to adjust the rates downward if it so chooses.

Public Works Director Wally Sandelin provided a PowerPoint presentation (filed) regarding the water rate schedule. Specific topics of discussion included recommended action of waiving the Consumer Price Index (CPI) increase, alternatives, water fund operations cash flow summary, water funds cash balances, and history. Mr. Sandelin pointed out that raising the rates with a CPI adjustment would trigger a Proposition 218 procedure as it would be the sixth year, which is one year beyond the time frame provided for indexing of utility rates. There are a number of projects yet to be completed, including replacement of 500,000 feet of six-inch diameter water pipes, installation of 14,000 water meters, and PCE/TCE cleanup, and the estimates for these projects are still conjecture. There will be two changes in how customers are billed: in January 2010, comparative information on water usage rate as compared to flat rate will be provided and in 2011, rates will be collected based on usage and the flat rate will disappear.

Mayor Hansen questioned if this change in billing is for customers who have meters, to which Mr. Sandelin replied in the affirmative. He further stated that it is possible to see a decline in revenue as this change may encourage greater water conservation. The same type of billing change may also be proposed for the wastewater utility, which would be tied to the water bill and be usage based.

Council Member Hitchcock commented that staff previously reported that the proposed \$35 million surface water treatment facility could be paid for without raising water rates. She suggested that the rate be reduced even further than the CPI to include the amount needed to pay for the facility and she questioned what the rate reduction would be.

Mr. Sandelin clarified that staff had reported that it would need to return to Council to address a substantial number of unknowns, including how to install and schedule the 14,000 water meters

and how to implement the infrastructure replacement program, as well as the anticipated approval from the State on the cleanup program for PCE/TCE. Because of these unknown factors, he believed it would not be prudent to make adjustments in the water rate, regardless of the surface water treatment facility.

Council Member Hitchcock expressed support for reducing the water rate in order to offset the proposed 60% increase in wastewater rates.

In response to Council Member Johnson, Mr. Sandelin stated that the water meter installation proposal is for customers to pay for the water meter box (approximately \$300) and the City would pay the remainder.

Council Member Mounce agreed with Ms. Hitchcock, stating that if the City has the ability to lower rates it should do so, particularly in light of the poor economy and the proposed wastewater rate increase.

In response to Mayor Hansen, Mr. Sandelin stated that, with regard to PCE/TCE cleanup, the first facilities will go into operation this year for groundwater monitoring, the State should approve the program in two years, and the length of the cleanup will depend on the concentrations of PCE/TCE in the groundwater and its reaction to the treatment structures.

Council Member Mounce stated that the issue of whether enough money has been collected to replace the infrastructure on the east side needs to be vetted thoroughly and that she would support waiving the CPI for this period; however, she would like the matter brought back to Council when it hears the issue relating to the wastewater fees. She stated there needs to be a model that would provide enough funding for meters, infrastructure, PCE/TCE cleanup, and ongoing maintenance, that the City needs to find a way to withdraw from the Woodbridge Irrigation District (WID) water agreement, and that none of the questions have been answered regarding the surface water treatment plant.

Council Member Hitchcock stated that citizens need to see why the City has collected the money, how much has been collected, what it was actually used for, and how much will be refunded. The Council approved a policy setting forth what citizens would pay for, and, until it is reversed, the City needs to follow through with its policy. Ms. Hitchcock stated the City should decrease the rate, gather the facts relating to the PCE/TCE cleanup, inform the citizens, and then build the treatment facility as a separate issue with any associated rate increase made public.

Council Member Johnson expressed opposition to suggestions of reversing actions taken by this and previous Councils and stated that instead there may be ways to fine-tune certain issues.

Mayor Pro Tempore Katakian suggested not accelerating the schedule for water meter installations.

Council Member Hitchcock concurred that the WID agreement decision would be difficult to reverse; however, she believed it could be revisited to determine if the water could be used for discharge.

Mayor Hansen stated that the decisions to purchase water from WID and to build the surface water treatment facility were sound decisions based on expert testimony and he was not interested in revisiting the matters. He also was not in favor of slowing down the process for water meters as the water supply continues to be over drafted. Mayor Hansen expressed concern about reducing the rate in light of the unknowns, especially if the City were forced to return with an increase, and stated he would support waiving the CPI water increase for 2009.

Council Member Hitchcock stated her debate is that new development should pay for the treatment plant and not rate payers. The City has been over collecting for PCE/TCE and infrastructure and if the City is going to utilize that to pay for the facility, rather than refund rate payers and offset the wastewater rate increase, it should be transparent about it.

Mayor Hansen pointed out that it is still unknown whether the City has over collected or not because there are only cost assumptions tied to each of the various programs. He believed staff should be given an opportunity to pull together the costs for capital, infrastructure, water meters, PCE/TCE cleanup, and the treatment facility in order to analyze the various options.

Council Member Mounce agreed that the water meter installation program could be slowed down and stated that there is no rush to complete the treatment facility as many of the issues still need to be determined.

Mayor Pro Tempore Katzakian pointed out that the PCE/TCE rate will sunset in 2014 and stated that a 30-year bond may not equate to a severe rate increase.

Mr. King stated that there has been no discussion about how to finance the facility, the costs are unknown, there are challenges associated with financing and having new development pay its fair share, and a Community Facilities District may assist in paying for the capital portion which staff is continuing to research.

Council Member Hitchcock indicated she would support waiving the CPI at this time; however, she stated that the issue of the various costs and possible over collection should be resolved as quickly as possible and that, once the facts are known, staff return to Council with an agenda item to reduce the rates.

In response to Mayor Hansen, Mr. Sandelin stated that he anticipates another 12 to 16 months before the Regional Board approves a remedial action plan for the PCE/TCE cleanup.

Mayor Hansen made a motion, second by Council Member Johnson, to waive the CPI increase for the water fund for fiscal year 2009-10 and maintain the water rate schedule as approved on April 16, 2008.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Mounce

Absent: None

K-2 Approval to Use the Grape Bowl Outside of Council-Approved Restrictions for a Concert (COM)

Interim Community Development Director James Rodems introduced the subject matter, explaining that the request is for Council to approve a one-time use of the Grape Bowl for a concert venue.

In response to Council Member Mounce, Mr. Rodems estimated that the ticket price would be \$30, the age range of concert-goers would be 30+, and the music would be categorized as classic rock.

In response to Council Member Hitchcock, Mr. Rodems stated that concerts in excess of 75 to 90 decibels are not recommended and the volume would not be at that level for area neighbors due

to the distance, but because this is the first concert, readings would be taken in order to collect data on what the effect is. Regardless, the concert would be limited to the City noise restrictions. Mr. Rodems estimated an attendance of 4,000 people and anticipated that parking would be similar to that of a rivalry football game.

Council Member Hitchcock expressed concern with approving this request as very little information is known, i.e. who is giving the concert, what the revenue would be, how it would impact the neighborhood, etc.

Mr. Rodems stated that staff is unable to move forward with negotiation of a rental contract with the promoter until Council approves the one-time use of the Grape Bowl. This one-time use would allow staff to study the ramifications and create a policy for future use.

Council Member Mounce stated she is willing to try a one-time use in order to determine if it is feasible; however, she stressed that the surrounding neighbors be notified about the concert.

Mayor Pro Tempore Katzakian expressed support for use of the Grape Bowl for this type of venue.

Council Member Johnson also expressed support for this request, stating that the City needs to use the facility in order to recapture its investment and this is a great start.

Council Member Johnson made a motion, second by Mayor Pro Tempore Katzakian, to approve use of the Grape Bowl outside of Council-approved restrictions for a concert, without the prohibition of a one-time use.

Council Member Hitchcock stated she would only support a one-time use until it is known how a venue of this nature would affect the residents in the area.

Council Member Hitchcock made a motion, second by Council Member Mounce, to amend the above motion to make the approval subject to a one-time use.

VOTE:

The motion to amend the original motion carried by the following vote:

Ayes: Council Members - Council Member Hitchcock, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Members - Council Member Johnson

Absent: Council Members - None

Robin Rushing spoke in support of the request, stating that a concert would generate revenue for the City.

VOTE:

The motion to approve the amended motion approving use of the Grape Bowl outside of Council-approved restrictions for a concert for a one-time use carried by the following vote:

Ayes: Council Members - Council Member Hitchcock, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Members - Council Member Johnson

Absent: Council Members - None

K-3 Receive and Review the Draft Fiscal Year 2009/2010 Financial Plan and Budget (CM)

Due to the large number of audience members who were present to discuss the Downtown Lodi Business Partnership (DLBP) funding in the proposed 2009-10 budget, Council opted to hear this

issue prior to the departmental budget presentations.

City Manager King distributed and reviewed his memorandum (filed) explaining the rationale behind his recommendation to not fund the DLBP in the 2009-10 budget. The two primary reasons are the management practices of DLBP and because its cost of staff and overhead are disproportionate to its direct cost of services. As an alternative, Council could reduce the funding by an amount equal to other economic development activities, or less, or provide funding on a one-year probationary basis.

In response to Council Member Hitchcock, Mr. King summarized the funding recommendations for the other groups: \$78,000 for Visit Lodi; \$29,000 for the San Joaquin Partnership; \$1,500 for the Lodi District Chamber of Commerce; \$21,000 for the San Joaquin Enterprise Zone; \$42,000 for the arts grants; \$16,000 for fireworks; and \$50,000 to United Cerebral Palsy for the downtown cleanup program.

Council Member Hitchcock expressed support for DLBP and all that it has accomplished in the downtown area and stated she would not support cutting its funding entirely.

Council Member Mounce agreed with Ms. Hitchcock's comments, stating that it is unfair to cut its funding without notice and that a reduction would give DLBP an opportunity to prepare for and budget accordingly.

Jaime Watts, Executive Director of DLBP, clarified that she did not request early receipt of its quarterly funding payment and stated that she collected signatures from over 100 businesses downtown requesting the City continue to fund the organization. The City of Lodi is part of this partnership, and she would like to see this relationship remain. The DLBP is prepared for a reduction in funding, but not a 100% cut. Without the City's contribution, many of the programs that give downtown Lodi its charm would not continue.

In response to Mayor Hansen, Ms. Watts confirmed that DLBP has a cash flow problem and that the organization is trying to resolve the issue. In December, she met with Mr. King to discuss his recommendations and he advised that DLBP create a reserve. This suggestion was brought before the board, and it has decided to host a golf tournament, of which 25% of the proceeds will go toward its reserve. Ms. Watts explained that funds from the assessments are received in January, which has to hold the organization over until funding from the Farmers' Market is received in June. Additionally, DLBP created an economic development committee, which is charged with creating a formal business plan, and she hopes to return to Council in the next three to four months to present the plan.

Discussion ensued between Mayor Hansen and Ms. Watts regarding the assessments, when they are billed and received, whether the funds from the assessments are flat or if they fluctuate, high turn over and closure of businesses, and challenges in collecting assessments. Mr. King added that one of the difficulties in budgeting for the assessments is that banks have the ability to opt out of the assessment. Deputy City Manager Jordan Ayers stated that current assessments amount to approximately \$44,000 for 250 to 300 businesses.

Mayor Pro Tempore Katzakian stated he supports DLBP and suggested that the City's payments to DLBP be adjusted so there are no lulls in cash flow.

In response to Council Member Johnson, Ms. Watts stated that she works with the City on keeping the database current, is in constant communication regarding the mailing and collection of assessments, and she calls businesses with reminders if they are delinquent on their payments.

Discussion ensued among Mayor Hansen, Council Member Johnson, and Ms. Watts regarding cost cutting measures, revenue-generating versus non-revenue-generating programs, services it provides for various events, description of expenses listed in the DLBP budget under "downtown revitalization/beautification" and "marketing," current staffing level, contract labor for various events, and personnel costs. Mr. King pointed out that DLBP's payroll costs equal the full amount of the City's contribution and the assessments and he believed the organization was top heavy.

Council Member Mounce stated that the City does not scrutinize Visit Lodi's financial statements to this degree and believed the issues were whether the City is a partner and to what degree can it afford to participate.

Council Member Hitchcock agreed that, compared to the entire budget, the salaries seem out of proportion; however, DLBP has accomplished quite a lot and sponsored many activities with only 1.5 staff members.

Council Member Johnson countered that the City is not scrutinizing Visit Lodi because it has not had controversy over how efficiently its organization is being run and organized. This is a question of confidence on how the City's contribution is being managed by DLBP.

In response to Council Member Mounce, Mr. King stated that the funding amounts for the other groups were reduced by 15%.

John Tecklenburg, manager of the Farmers' Market program, spoke in support of the City continuing to fund the DLBP, stating he believed the organization would figure a way to bring itself back into the black.

Rita Sperling, President of DLBP, also spoke in support of continued funding, stating she was committed to orchestrating a change on how the merchants feel about DLBP.

Council Member Johnson suggested that, in addition to a 15% funding reduction, the DLBP be placed on probation for one year.

Ann Cerney spoke in support of the City's continued funding of DLBP.

Council Member Mounce made a motion, second by Council Member Hitchcock, to support the Downtown Lodi Business Partnership in the 2009-10 budget with a 15% reduction from last year's contribution amount of \$34,000.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Mayor Pro Tempore Katakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Johnson

Absent: None

Vote to Continue with the Remainder of the Meeting

Council Member Mounce made a motion, second by Mayor Pro Tempore Katakian, to continue with the remainder of the meeting following the 11:00 p.m. hour.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katakian, Council Member Mounce, and Mayor Hansen

Noes: None
Absent: None

K-4 Approve Legal Expenses Incurred by Outside Counsel Relative to the Environmental Abatement Program Litigation (\$2,839.72) and the Lodi First Litigation (\$7,333.92); and Further Provide Direction to City Attorney Regarding Desired Procedures for Future Litigation Billings (CA)

City Attorney Schwabauer reviewed the invoices presented for approval and further questioned if Council would like to continue receiving invoices related to the Lodi First and Citizens for Open Government cases, which are completely reimbursed by Wal-Mart, due to the fact that the environmental expenses are coming to an end. There was Council consensus to continue to bring forward PCE-related invoices, but not those from Lodi First and Citizens for Open Government.

Council Member Hitchcock made a motion, second by Council Member Mounce, to approve legal expenses incurred by outside counsel relative to the Lodi First Litigation in the amount of \$7,333.92.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

Mayor Hansen made a motion, second by Council Member Johnson, to approve legal expenses incurred by outside counsel relative to the Environmental Abatement Program litigation in the amount of \$2,839.72.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Hitchcock

Absent: None

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 11:13 p.m., in memory of Bob Wheeler, former Plant Manager of General Mills, who passed away on May 16, 2009.

ATTEST:

Jennifer M. Perrin
Assistant City Clerk