

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 20, 2010**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of October 20, 2010, was called to order by Mayor Katzakian at 6:00 p.m.

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

Absent: None

Also Present: Interim City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

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 Pursuant to Government Code §54957.6
- b) Actual Litigation: Government Code §54956.9; One Application; Lance Hayden v. City of Lodi; WCAB #STK 214337 (3/10/08)
- c) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Nathan Bullock Against City of Lodi Based on Damage to Personnel Property

C-3 Adjourn to Closed Session

At 6:00 p.m., Mayor Katzakian adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:50 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:00 p.m., Mayor Katzakian reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Items C-2 (a), C-2 (b), and C-2 (c) were discussion and direction only with no reportable action.

A. Call to Order / Roll call

The Regular City Council meeting of October 20, 2010, was called to order by Mayor Katzakian at 7:00 p.m.

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

Absent: None

Also Present: Interim City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

B. Pledge of Allegiance

C. Presentations

C-1 Sandhill Crane Festival Proclamation

Mayor Katzakian presented a proclamation to Ken Nieland of the Lodi Sandhill Crane Association in celebration of the Sandhill Crane Festival in the City of Lodi.

C-2 Public Power Week Proclamation (EUD)

Mayor Katzakian presented a proclamation to Elizabeth Kirkley, Electric Utility Director, proclaiming the week of October 18 - 22, 2010, as "Public Power Week" in the City of Lodi.

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

Council Member Mounce made a motion, second by Mayor Pro Tempore Hitchcock, 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 Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

D-1 Receive Register of Claims in the Amount of \$8,154,300.63 (FIN)

Claims were approved in the amount of \$8,154,300.63.

D-2 Approve Minutes (CLK)

The minutes of September 28, 2010 (Shirtsleeve Session), October 5, 2010 (Shirtsleeve Session), October 6, 2010 (Regular Meeting), and October 12, 2010 (Shirtsleeve Session) were approved as written.

D-3 Approve Specifications and Authorize Advertisement for Bids for Continued Maintenance of Landscape Areas for 2011 (PW)

Approved the specifications and authorized advertisement for bids for Continued Maintenance of Landscape Areas for 2011.

D-4 Authorize Acceptance of Donation of 2007 Ford Van as Partners Replacement Vehicle (PD)

This item was pulled for further discussion by Council Member Hansen.

Council Member Hansen commended the Partners on its efforts to raise funds for the replacement vehicle and the overall service it provides to the City.

Council Member Hansen made a motion, second by Council Member Johnson, to authorize the acceptance of a donation of a 2007 Ford van as a Partners replacement vehicle.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

D-5 Adopt Resolution Authorizing the City Manager to Execute Agreements with the Following Entities for the State Route 99/Harney Lane Interim Improvement Project and Appropriating Funds in the Amount of \$1,500,000 for the Total Project: a) Knife River Construction, of Stockton, for Construction (\$944,450); b) Mark Thomas & Company, of Sacramento, for Construction Administration (\$175,400); c) Fehr & Peers Transportation Consultants, of Roseville, for Traffic Signal Coordination (\$13,990); and d) San Joaquin Council of Governments for Incidental Take Minimization Measures Agreement (\$26,452.68) (PW)

Adopted Resolution No. 2010-177 authorizing the City Manager to execute agreements with the following entities for the State Route 99/Harney Lane Interim Improvement Project and appropriating funds in the amount of \$1,500,000 for the total project: a) Knife River Construction, for construction (\$944,450); b) Mark Thomas & Company, of Sacramento, for construction administration (\$175,400); c) Fehr & Peers Transportation Consultants, of Roseville, for traffic signal coordination (\$13,990); and d) San Joaquin Council of Governments for Incidental Take Minimization Measures Agreement (\$26,452.68).

D-6 Adopt Resolution Authorizing the City Manager to Enter into a Letter of Agreement Between the City of Lodi and Scientific Specialties, Inc. for the Sale of Designated Municipal Electric Distribution Facilities (\$36,983) (EUD)

Adopted Resolution No. 2010-178 authorizing the City Manager to enter into a letter of agreement between the City of Lodi and Scientific Specialties, Inc. for the sale of designated municipal electric distribution facilities in the amount of \$36,983.

D-7 Adopt Resolution Approving the Western Systems Power Pool Agreement and Authorizing Execution by the City Manager and Administration by the Electric Utility Director (\$25,000) (EUD)

Adopted Resolution No. 2010-179 approving the Western Systems Power Pool agreement and authorizing execution by the City Manager and administration by the Electric Utility Director in the amount of \$25,000.

D-8 Adopt Resolution Authorizing \$250,000 in Public Benefit Program Funds for the Energy Efficiency Financing Pilot Project and Authorizing the Electric Utility Director to Administer the Project (EUD)

Interim City Manager Rad Bartlam briefly introduced the subject matter of the energy efficiency financing pilot project.

Manager of Customer Services & Programs Rob Lechner provided a PowerPoint presentation regarding the City of Lodi's Energy Efficiency Financing Pilot Project. Specific topics of discussion included a description of the proposed project, the purpose, Public Benefit Program funding, participation eligibility, and proposed time line for project roll-out.

In response to Mayor Katzakian, Mr. Lechner stated the construction loans are based on reimbursements, which are provided when the project is fully operational.

In response to Mayor Pro Tempore Hitchcock, Mr. Lechner confirmed that the project is first

come, first serve and staff will review the credit worthiness of applicants based on their payment history with the City.

In response to Mayor Katzakian, Mr. Lechner stated the program provides an overall savings for customers while replenishing the program funds every two years.

In response to Mayor Pro Tempore Hitchcock, Mr. Lechner stated the solar rebates program is fully funded and there are ample dollars in the regular rebate program to fund the proposed solar program.

In response to Council Member Johnson, Mr. Lechner stated there is approximately \$500,000 in the Public Benefits Program that remains unspoken for and he is confident that there are sufficient funds to run the balance of the program.

In response to Council Member Hansen, Mr. Lechner confirmed that the overall goal is to sell less energy to buy less energy and conservation.

Council Member Hansen made a motion, second by Council Member Mounce, to adopt Resolution No. 2010-181 authorizing \$250,000 in Public Benefit Program funds for the Energy Efficiency Financing Pilot Project and authorizing the Electric Utility Director to administer the project.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

D-9 Adopt Resolution Approving Updated Engineering and Traffic Surveys on Almond Drive, Crescent Avenue (Kettleman Lane to Lodi Avenue), and Harney Lane (West City Limits to East City Limits) Resulting in No Change to Existing Speed Limits (PW)

Adopted Resolution No. 2010-180 approving updated Engineering and Traffic Surveys on Almond Drive, Crescent Avenue (Kettleman Lane to Lodi Avenue), and Harney Lane (west City limits to east City limits) resulting in no change to existing speed limits.

D-10 Set Public Hearing for November 3, 2010, to Consider Adoption of the 2010 California Building Code, Mechanical Code, Electrical Code, Plumbing Code, Residential Code, Green Building Standard Code, Fire Code with Local Amendments Including a Fee Schedule for Operational Permits and ATC 20 Placards (CD)

Set public hearing for November 3, 2010, to consider adoption of the 2010 California Building Code, Mechanical Code, Electrical Code, Plumbing Code, Residential Code, Green Building Standard Code, and Fire Code with local amendments including a fee schedule for operational permits and ATC 20 Placards.

D-11 Set Public Hearing for November 17, 2010, to Consider Resolution Approving Transit Fare Structure Updates (PW)

Set public hearing for November 17, 2010, to consider resolution approving transit fare structure updates.

E. 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.

None.

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

Council Member Hansen reported on his attendance at the San Joaquin Council of Governments meetings and discussed funding for projects and the strategic planning session. Mr. Hansen also commended the efforts associated with the kitchen remodel project at the Loel Center.

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

Interim City Manager Rad Bartlam provided a brief overview of the process and status of the bond sale and financing as it relates to the Surface Water Treatment Facility Project.

H. Public Hearings

H-1 Public Hearing to Consider Substitution of Listed Subcontractors and Bid Protest; Adopt Resolution Authorizing the City Manager to Execute Agreements with the Following Entities for the Surface Water Treatment Facility Project and Appropriating Funds in the Amount of \$36,500,000 for the Total Project: a) C. Overaa & Co., of Richmond, for Construction (\$22,837,000); b) Pall Corporation, of Port Washington, New York, for Membrane Filtration System (\$3,926,081); c) Krazan & Associates, of Modesto, for Testing and Inspection Services (\$488,000); d) Durst Contract Interiors, of Stockton, for Furniture (\$52,025.98); e) HDR Engineering, of Folsom, for Construction Administration Services for Surface Water Treatment Facility Project (\$890,000); f) San Joaquin Council of Governments for Incidental Take Minimization Measures Agreement (\$90,606.80) (PW)
NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Katzakian called for the public hearing to consider substitution of listed subcontractors and bid protest; adopt resolution authorizing the City Manager to execute agreements with the following entities for the Surface Water Treatment Facility Project and appropriating funds in the amount of \$36,500,000 for the total project: a) C. Overaa & Co., of Richmond, for construction (\$22,837,000); b) Pall Corporation, of Port Washington, New York, for membrane filtration system (\$3,926,081); c) Krazan & Associates, of Modesto, for testing and inspection services (\$488,000); d) Durst Contract Interiors, of Stockton, for furniture (\$52,025.98); e) HDR Engineering, of Folsom, for construction administration services for Surface Water Treatment Facility Project (\$890,000); and f) San Joaquin Council of Governments for Incidental Take Minimization Measures Agreement (\$90,606.80).

Interim City Manager Rad Bartlam provided a brief introduction to the subject matter of the Surface Water Treatment Facility.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the Surface Water Treatment Facility. Specific topics of discussion included the public hearing process,

subcontractor substitutions, protest process, schedule for project, project budget, and recommended actions for each of the six contracts outlined in the staff report.

In response to Council Member Hansen, Mr. Sandelin stated the bid numbers were correct, but the company that was listed was wrong and the bottom line figure is not affected.

A brief discussion ensued between the City Council regarding the need for the project at the current time, the costs associated with the project, the economy and market conditions, water supply, and the historical debate over the water treatment options.

Mayor Katzakian opened the public hearing and having received no public comments closed the public hearing.

Council Member Johnson made a motion, second by Council Member Hansen, to approve the substitution of listed subcontractors and reject the bid protest.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

Council Member Johnson made a motion, second by Council Member Hansen, to adopt Resolution No. 2010-182 authorizing the City Manager to execute agreements with the following entities for the Surface Water Treatment Facility Project and appropriating funds in the amount of \$36,500,000 for the total project: a) C. Overaa & Co., of Richmond, for construction (\$22,837,000); b) Pall Corporation, of Port Washington, New York, for membrane filtration system (\$3,926,081); c) Krazan & Associates, of Modesto, for testing and inspection services (\$488,000); d) Durst Contract Interiors, of Stockton, for furniture (\$52,025.98); e) HDR Engineering, of Folsom, for construction administration services for Surface Water Treatment Facility Project (\$890,000); f) San Joaquin Council of Governments for Incidental Take Minimization Measures Agreement (\$90,606.80).

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, and Mayor Katzakian

Noes: Council Member Mounce, and Mayor Pro Tempore Hitchcock

Absent: None

H-2 Public Hearing to Consider Introduction of Ordinance Amending Chapter 13.20, "Electrical Service," Article III, "Rates," to Revise Provisions Relating to Net-Metered Energy Generation and Co-Metered Energy Generation (EUD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Katzakian called for the public hearing to consider introduction of ordinance amending Lodi Municipal Code Chapter 13.20, "Electrical Service," Article III, "Rates," to revise provisions relating to net-metered energy generation and co-metered energy generation.

Interim City Manager Rad Bartlam briefly introduced the subject matter of the ordinance amending Chapter 13.20.

Electric Utility Director Elizabeth Kirkley provided a PowerPoint presentation regarding the

proposed ordinance amending Chapter 13.20 of the Lodi Municipal Code. Specific topics of discussion included background, net energy metering, co-energy metering, proposal, metering pricing, eligibility, payment for surplus, public benefits charge, attributes, and summary of changes.

In response to Council Member Hansen, Ms. Kirkley confirmed that the City has approximately 62 current solar customers.

In response to Mayor Katzakian, Ms. Kirkley stated residents are generally net metered at ten and anything else is co-metered.

In response to Council Members Hansen and Mounce, Ms. Kirkley confirmed currently there is one customer of the 62 that generates more than they consume through net metering.

In response to Mayor Pro Tempore Hitchcock, Ms. Kirkley stated the full retail rate includes the Energy Cost Adjustment (ECA) and without the ECA the number would fluctuate monthly.

In response to Mayor Pro Tempore Hitchcock, Ms. Kirkley stated under co-metering the City is buying at the average wholesale rate rather than the full retail rate.

In response to Council Member Mounce, Ms. Kirkley stated the original intent of AB 920 was to be compensated for excess generation and encourage solar energy use.

In response to Mayor Pro Tempore Hitchcock, Ms. Kirkley stated solar customers are being notified of the program although they are not required by law to participate.

In response to Council Member Mounce, Mr. Lechner provided an overview of the public outreach process including contacting potential customers by letter and personally.

In response to Mayor Katzakian, Ms. Kirkley stated the subsidy from other rate payers includes the effect on the overall rate.

In response to Council Member Johnson, Ms. Kirkley stated the credits assist the City with power content labels and the credits also count toward green house emission numbers and renewable energy. Ms. Kirkley stated currently there is no monetary exchange for the credits although the City could look into selling the credits in the future if all of its portfolio needs are met.

In response to Council Member Hansen, Mr. Lechner provided an overview of the pilot solar programs offered over the last few years and the decreasing costs associated with the same.

Mayor Katzakian opened the public hearing and having received no public comments closed the public hearing.

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Mounce, to introduce Ordinance No. 1833 amending Lodi Municipal Code Chapter 13.20, "Electrical Service," Article III, "Rates," to revise provisions relating to net-metered energy generation and co-metered energy generation.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

I. Communications

I-1 Post for Expiring Terms on Lodi Animal Advisory Commission, Lodi Senior Citizens Commission, Recreation Commission, San Joaquin Council of Governments Citizens' Advisory Committee, and Site Plan and Architectural Review Committee (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to direct the City Clerk to post for the following expiring terms:

Lodi Animal Advisory Commission

Gina Mendes, Term to expire December 31, 2010

Julia Priest, Term to expire December 31, 2010

Lodi Senior Citizens Commission

Kathryn Siddle, Term to expire December 31, 2010

Recreation Commission

Ken Sasaki, Term to expire December 31, 2010

Ed Wall, Jr., Term to expire December 31, 2010

Barbara Wardrobe-Fox, Term to expire December 31, 2010

San Joaquin Council of Governments Citizens' Advisory Committee

Richard Blackston, Term to expire January 1, 2011

Site Plan and Architectural Review Committee

Keith Selleseth, Term to expire January 1, 2011

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

I-2 Monthly Protocol Account Report (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to approve the cumulative Monthly Protocol Account Report through September 30, 2010.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

J. Regular Calendar

J-1 Provide Direction to Staff to Resolve Unpermitted Sidewalk Removal at 1032 Laurel Avenue (PW)

Public Works Director Wally Sandelin provided an overview of the unpermitted sidewalk removal at 1032 Laurel Avenue and the options associated with the same as set forth in the staff report.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated option three really is not an option but because it was proposed by the property owner staff felt a responsibility to bring it forward to the City Council.

In response to Council Member Mounce, Mr. Sandelin stated the property owner is aware of the \$2,850 amount as proposed in option two without the vacation of the right-of-way. He stated the \$2,850 could be put toward the handicap ramp at the corner as previously discussed if the Council so desired.

In response to Council Member Johnson, Mr. Sandelin stated if option two is chosen the two properties to the north are not affected because they do not have a sidewalk either.

Council Member Mounce made a motion, second by Council Member Johnson, to authorize staff to resolve the matter of the unpermitted sidewalk removal at 1032 Laurel Avenue as recommended in Option No. 2.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

J-2 Approve Water Meter Cost, Extended Payment, and Payment Deferral Plan (PW)

Interim City Manager Rad Bartlam briefly introduced the subject matter of the water meter program.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the proposed water meter program. Specific topics of discussion included the recommendation, historical information, approved cost by class, proposed cost by class, payment installments, favorable factors, financial analysis, seven-year construction term, and payment responsibilities.

In response to Council Member Hansen, Mr. Sandelin stated that, for those who paid more than \$300 for their water meter, rebates will be available, the affected property owners are being contacted, and the total amount of rebates is approximately \$7,000.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated property owners who are eligible will know based upon their building permit records and can confirm eligibility by contacting the department.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated approximately 15 property owners had their water meters installed privately.

In response to Council Member Johnson, Mr. Sandelin stated the notice will clearly state that only those who actually paid for the water meter installation qualify for the rebate.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated that, with respect to the bid process, the low bid was related to the overall amount of debt service needed.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated the PCE/TCE funds are restricted by the settlement agreements, are in separate accounts, and are separate from rate structures. Mr. Schwabauer stated the \$18 million figure includes \$3 million of rate revenue and

\$15 million of settlement revenue.

In response to Council Member Mounce, Mr. Sandelin stated that, if there is a mother-in-law unit with two separate tenants, the property owner will receive the bill and the same is true for duplexes, triplexes, and fourplexes.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated about 45% of the City's housing stock is rental properties.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated it is possible that there will be two bills for one property because the property owner will get the water meter installation bill and the tenant will get the usage bill.

In response to Council Member Hansen, Mr. Sandelin stated the proposal is similar to what other communities are generally doing for property owner and tenant billing.

In response to Council Member Hansen, Mr. Sandelin stated staff has met with interested parties including realtor groups.

In response to Council Member Mounce, Mr. Sandelin stated approximately 12,800 homes remain to be metered.

In response to Mayor Pro Tempore Hitchcock, Mr. Schwabauer stated the City Council can vote on the item under the "Public General" exception.

Tony Amador spoke in regard to his concerns about how the proposal will affect commercial businesses and urged the Council to wait six months to study the matter.

Shelley Schmidt spoke of her concerns regarding how the proposal will affect multiple apartment complexes and property owners in general.

Phyllis Robinson spoke of her concerns regarding fairness in usage and billing for property owners.

In response to Council Member Hansen, Mr. Sandelin stated the policy decision for anything above a fourplex will come back to the City Council for consideration next year.

Council Member Mounce made a motion, second by Council Member Johnson, to approve the Water Meter Cost, Extended Payment, and Payment Deferral Plan as recommended.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

J-3 Review of Timing for Payment of Development Impact Mitigation Fees (CM)

Interim City Manager Rad Bartlam provided a brief introduction to the subject matter of the development impact mitigation fees, stating currently the program applies to both residential and commercial.

In response to Mayor Pro Tempore Hitchcock and Council Member Hansen, Mr. Bartlam stated

the current policy was not written so as to be separate or have differing application to residential and commercial development.

In response to Council Member Hansen, Mr. Bartlam stated he does not believe the subject policy will be the driving force for a decision to build or not build within the City.

A motion by Mayor Pro Tempore Hitchcock, second by Mounce, to amend the current policy to make it applicable to residential development only failed.

K. Ordinances - None

L. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 9:57 p.m.

ATTEST:

Randi Johl
City Clerk