

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, NOVEMBER 16, 2011**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of November 16, 2011, was called to order by Mayor Johnson at 6:00 p.m.

Present: Council Member Hansen, Council Member Katzakian, Council Member Nakanishi, and Mayor Johnson

Absent: Mayor Pro Tempore Mounce

Also Present: City Manager Bartlam, Deputy City Attorney Magdich, and City Clerk Johl

C-2 Announcement of Closed Session

- a) Conference with Stephen Schwabauer, City Attorney, and Dean Gualco, Human Resources Manager (Labor Negotiators), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters Pursuant to Government Code §54957.6
- b) Conference with Stephen Schwabauer, City Attorney (Labor Negotiator), Regarding Police Mid-Managers, Lodi Police Officers Association, and Lodi Police Dispatchers Association Pursuant to Government Code §54957.6
- c) Government Code Section 54956.9(b)(c); Exposure to Litigation; Lodi Unified School District v. City of Lodi Regarding Alleged Utility Overcharges

C-3 Adjourn to Closed Session

At 6:00 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:35 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:00 p.m., Mayor Johnson reconvened the City Council meeting, and Deputy City Attorney Magdich disclosed the following actions.

Items C-02 (a) and C-02 (b) were discussion only with no reportable action.

In regard to Item C-02 (c), the City Council provided direction with no reportable action.

A. Call to Order / Roll Call

The Regular City Council meeting of November 16, 2011, was called to order by Mayor Johnson at 7:00 p.m.

Present: Council Member Hansen, Council Member Katzakian, Council Member Nakanishi, and Mayor Johnson

Absent: Mayor Pro Tempore Mounce

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

B. Presentations - None

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

Mayor Johnson made a motion, second by Council Member Katzakian, to approve the following items hereinafter set forth 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 Katzakian, Council Member Nakanishi, and Mayor Johnson

Noes: None

Absent: Mayor Pro Tempore Mounce

C-1 Receive Register of Claims in the Amount of \$9,199,336.53 (FIN)

Claims were approved in the amount of \$9,199,336.53.

C-2 Approve Minutes (CLK)

The minutes of October 19, 2011 (Regular Meeting), November 1, 2011 (Shirtsleeve Session), November 2, 2011 (Regular Meeting), and November 8, 2011 (Shirtsleeve Session) were approved as written.

C-3 Accept Quarterly Report of Purchases Between \$5,000 and \$20,000 (CM)

Accepted the quarterly report of purchases between \$5,000 and \$20,000.

C-4 Approve Specifications and Authorize Advertisement for Bids for City of Lodi Facility Painting Project at Various Locations (PW)

Approved the specifications and authorized advertisement for bids for City of Lodi Facility Painting Project at Various Locations.

C-5 Approve Specifications and Authorize Advertisement for Bids to Procure Polemount and Padmount Transformers (EUD)

Approved the specifications and authorized advertisement for bids to procure polemount and padmount transformers.

C-6 Adopt Resolution Approving the Purchase of a Replacement Bucket Truck from Altec Industries, Inc., of Dixon (\$95,405) (EUD)

Adopted Resolution No. 2011-176 approving the purchase of a replacement bucket truck from Altec Industries, Inc., of Dixon, in the amount of \$95,405.

C-7 Adopt Resolution Authorizing the City Manager to Execute Purchase Order with Downtown Ford Sales, of Sacramento, for 2011 Ford F550 Truck and Utility Bed (\$88,823.95) (PW)

Adopted Resolution No. 2011-177 authorizing the City Manager to execute purchase order with Downtown Ford Sales, of Sacramento, for 2011 Ford F550 truck and utility bed in the amount of \$88,823.95.

In response to Council Member Nakanishi, Deputy City Manager Jordan Ayers stated the City looks to purchase vehicles from Lodi first in an effort to retain sales tax locally but in some cases purchases are made outside of Lodi, as in the instant case, because the overall savings is greater than the sales tax amount.

C-8 Accept Improvements Under Contract for Kofu Park Community Building Energy Efficiency Project (PW)

Accepted the improvements under contract for Kofu Park Community Building Energy Efficiency Project.

C-9 Adopt Resolution Authorizing the City Manager to Execute Improvement Deferral Agreement for 27 East Locust Street (PW)

Adopted Resolution No. 2011-178 authorizing the City Manager to execute Improvement Deferral Agreement for 27 East Locust Street.

C-10 Adopt Resolution Authorizing the City Manager to Execute Third Supplemental Agreement to Pixley Park Property Exchange Agreement and Improvement Agreement with GFLIP III, L. P., to Provide Time Extension (PW)

Adopted Resolution No. 2011-179 authorizing the City Manager to execute Third Supplemental Agreement to Pixley Park Property Exchange Agreement and Improvement Agreement with GFLIP III, L. P., to provide time extension.

C-11 Adopt Resolution Authorizing the City Manager to Execute Task Order No. 32 with West Yost Associates, of Davis, for Preparation of the City's Report of Waste Discharge (\$33,100) (PW)

Adopted Resolution No. 2011-180 authorizing the City Manager to execute Task Order No. 32 with West Yost Associates, of Davis, for preparation of the City's Report of Waste Discharge in the amount of \$33,100.

C-12 Adopt Resolution Ratifying Employment Agreement Entered Into Between the City of Lodi and Lawrence R. Rooney (CM)

Adopted Resolution No. 2011-181 ratifying Employment Agreement entered into between the City of Lodi and Fire Chief Lawrence R. Rooney.

C-13 Adopt Resolution Authorizing the City Manager to Amend the Energy Efficiency Financing Program (EUD)

Adopted Resolution No. 2011-182 authorizing the City Manager to amend the Energy Efficiency Financing Program.

C-14 Receive Report Regarding Communications Pertaining to the California High-Speed Rail Authority and American Recovery and Reinvestment Act Funding (CLK)

Received report regarding communications pertaining to the California High-Speed Rail Authority and American Recovery and Reinvestment Act funding.

C-15 Set Public Hearing for December 21, 2011, to Consider Adopting Resolution Setting Pre-Approved Engineering News Record Adjustment Index for Usage-Based and Flat Water

Rates (PW)

Set public hearing for December 21, 2011, to consider adopting resolution setting pre-approved Engineering News Record adjustment index for usage-based and flat water rates.

D. 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.

Jane Wagner-Tyack spoke in support of the new treatment plant facility being staffed by City of Lodi employees and submitted a letter for the record outlining the same.

Jerry Glenn, representing Lodi Adopt-A-Child, encouraged the City Council and residents to participate in the annual holiday toy and clothing drive for the children.

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

Council Member Hansen invited the public to Wags to Riches, a new thrift store, and the ribbon cutting on November 18, 2011.

Council Member Nakanishi provided a brief status of the State budget with respect to anticipated revenues and expenditures.

Mayor Johnson asked the City Manager to calendar a Shirtsleeve Session or regular meeting with the Lodi Animal Commission to discuss its most recent letter, which questioned the direction of the City Council for the Commission.

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

City Manager Bartlam wished City Attorney Schwabauer a speedy recovery and return.

G. Public Hearings

G-1 Public Hearing to Consider Unmet Transit Needs in Lodi (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider unmet transit needs in Lodi.

Public Works Director Wally Sandelin provided a brief overview of the proposed public hearing to consider unmet transit needs as discussed in the staff report.

Mayor Johnson opened the public hearing and receiving no public comment closed the hearing.

No additional action was required at the present time.

G-2 Public Hearing to Consider Adopting Resolution Confirming the 2012 Annual Report and Levy of Assessments within the Lodi Tourism Business Improvement District (CM)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider adopting a resolution confirming the 2012 Annual Report and levy of assessments within the Lodi Tourism Business Improvement District.

Deputy City Manager Jordan Ayers provided a brief overview of the proposed public hearing and levy of assessments as outlined in the staff report.

In response to Council Member Nakanishi, Mr. Ayers stated the transient oriented tax is 9%, of which the City receives 6% and Visit Lodi receives 3%. He stated the program has been in place for approximately five years.

Mayor Johnson opened and closed the public hearing after receiving no public comment.

Mayor Johnson made a motion, second by Council Member Katzakian, to adopt Resolution No. 2011-183 confirming the 2012 Annual Report and levy of assessments within the Lodi Tourism Business Improvement District.

**VOTE:**

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Pro Tempore Mounce

**G-3 Public Hearing to Introduce an Ordinance Establishing a Fee Recovery Schedule for the Lodi Energy Theft Diversion Program (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 Johnson called for the public hearing to consider introduction of an ordinance establishing a fee recovery schedule for the Lodi Energy Theft Diversion Program.

Customer Services and Programs Manager Rob Lechner provided a PowerPoint presentation regarding the energy theft diversion and field services fee recovery schedule. Specific topics of discussion included the purpose of the new fee schedule, theft diversion statistics, proposed fee recovery schedule, and comparisons with other agencies.

In response to Mayor Johnson, Mr. Lechner stated once the houses are sealed some customers will pay and others will not and in those cases code enforcement will become involved as a health and safety matter.

In response to Council Member Nakanishi, Mr. Lechner stated the fees only apply to those who steal the energy and fee collection occurs when the energy is restored.

In response to Council Member Hansen, Mr. Lechner stated the utility is turning off approximately 60 customers per week for non-payment.

In response to Council Member Nakanishi, Mr. Lechner stated many other agencies have similar energy theft diversion programs.

In response to Mayor Johnson, Deputy City Manager Jordan Ayers stated the City loses a total of \$545,000 annually in bad debt write-off.

In response to Council Member Hansen, Mr. Lechner stated the vehicle and equipment fees are already in the existing rules and regulations and are based on actual fuel and wear and tear costs.

In response to Council Member Hansen, Mr. Lechner stated the utility seals during all weeks throughout the year except holiday weeks.

In response to Mayor Johnson, Mr. Ayers stated the recapture rate for energy is high because payment is collected prior to energy service being restored.

Mayor Johnson opened the public hearing to receive public comment.

In response to Kathy Polinsky, Mr. Lechner stated the nighthawk collar is only placed on a meter when necessary for repeat offenders.

John Slaughterback spoke in favor of the proposed item, stating it is important for the program to serve as a deterrent.

Mayor Johnson closed the public hearing after receiving no further public comment.

Council Member Hansen made a motion, second by Council Member Katzakian, to introduce Ordinance No. 1855 establishing a fee recovery schedule for the Lodi Energy Theft Diversion Program excluding the "Vehicle and Equipment Fees" of \$15, \$4, and \$3, respectively.

VOTE:

The above motion carried by the following vote:

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

Noes: Council Member Nakanishi

Absent: Mayor Pro Tempore Mounce

H. Communications

H-1 Post for Vacancy on the Lodi Animal Advisory Commission (CLK)

This item was pulled from the agenda.

I. Regular Calendar

I-1 Adopt Resolution Authorizing the City Manager and Treasurer to Execute Agreements for Remit Plus Software, Merchant Card Services, and Remote Deposit Services with Jack Henry and Associates, Inc., Elavon, Inc., and Farmers & Merchants Bank of Central California and Direct City Manager and Treasurer to Negotiate a Banking Services Contract with Farmers & Merchants Bank (CM)

Deputy City Manager Jordan Ayers provided a PowerPoint presentation regarding banking services. Specific topics of discussion included the current status of banking services, recommendations regarding optional and mandatory services, lockbox alternatives and costs, merchant card services and costs, remote deposit capture and costs, and authorization to negotiate a banking services contract with various minimum terms.

In response to Council Member Hansen, Mr. Ayers stated the \$6 card fee is currently absorbed by the City and with the new contract will be reduced to \$1.17 per transaction.

In response to Council Member Katzakian, Mr. Ayers stated federal regulations dictate how long paper checks must be kept and they are shredded thereafter.

In response to Council Member Nakanishi, Mr. Ayers stated many agencies, including the larger cities, have been doing electronic check deposits for some time.

In response to Council Member Hansen, Mr. Ayers stated the City is not looking to expand services at any of the three pay station locations, which are cash-operated by independent vendors.

In response to Mayor Johnson, Mr. Ayers stated the proposed three actions are independent of a future banking services contract with F & M Bank. City Manager Bartlam stated that, although F & M Bank is fronting some costs, there may be a need to reimburse if a future agreement cannot be reached.

Krista Steele, representing F & M Bank, stated the current proposal and costs were fronted in good faith by the bank regardless of what happens in the future.

Mayor Johnson made a motion, second by Council Member Hansen, to adopt Resolution No. 2011-184 authorizing the City Manager and Treasurer to execute agreements for Remit Plus software, merchant card services, and remote deposit services with Jack Henry and Associates, Inc., Elavon, Inc., and Farmers & Merchants Bank of Central California and direct the City Manager and Treasurer to negotiate a banking services contract with Farmers & Merchants Bank.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: Mayor Pro Tempore Mounce

J. Ordinances - None

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 8:25 p.m.

ATTEST:

Randi Johl  
City Clerk