AGENDA ITEM I-3

CITY OF LODI
COUNCIL COMMUNICATION

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AGENDA TITLE: Public Hearing to Consider Resolution Setting Fee for Storm Drainage Development Standard Plans Compliance inspection for Post Construction Best Management Practices as Required in the Standards

MEETING DATE: September 3,2008

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Conduct a public hearing to consider a resolution setting a $122 fee for Storm Drainage Development Standard Plans compliance inspection for post construction Best Management Practices as required in the Standards.

BACKGROUND INFORMATION: The State Water Resources Control Board issued the City of Lodi Permit WDID No. 5B39NP00028 (Permit) that governs the discharge of storm water runoff. A condition of that permit requires the adoption of a Stormwater Development Standards Plan (Standards) per Attachment No. 4 of the State's General Discharge Permit. These Standards were adopted by Council at the August 6, 2008 meeting.

The Permit requires inspections of the Best Management Practices (BMPs) required by the Standards during construction and annually thereafter to confirm they are being correctly maintained and operated. The construction inspection fee was adopted by City Council on April 18, 2007 and is currently $122 per site per visit. The proposed post-constructionfee is $122 per site per year, assuming a single visit is required. The property owner would be billed after each inspection. Should a site require multiple inspections, that expense would also be billed.

The Standards also apply to subdivisions of ten lots or greater, in which ***case,*** community-serving BMPs may be required. Although the construction cost for the BMPs would be borne by the developer, the costs for the annual inspections would be absorbed by the City without a post construction fee in place. Alternatives for funding this class of inspections include Community Facilities Districts for Public Services, Homeowner Associations, and Lighting and Landscape Maintenance Districts. Policy direction on this class of BMPs will be brought to the City Council on a case-by-case basis.

The fee will become effective 30 days after the date of adoption of the resolution and would be annually adjusted on July 1, using the Consumer Price Index (San Francisco, Urban, unadjusted).

Staff requests the City Council conduct a public hearing to consider a resolution establishing the fee for the Storm Drainage Development Standard Plans compliance inspection for post construction Best Management Practices as required in the Standards.

FISCAL IMPACT: Project revenue for the first year is $1,220. That will increase each year as new projects and redevelopment projects are constructed.

FUNDING AVAILABLE: Not applicable.

F. Wally Sandelin
Public Works Director

Prepared by George M. Bradley, Streets & Drainage Manager
FWS/GMB/dsg

APPROVED: _____
Blair King, City Manager

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8/28/2008

RESOLUTION NO. 2008-180

A RESOLUTION OF THE LODI CITY COUNCIL
SETTING FEE FOR STORM DRAINAGE DEVELOPMENT
STANDARD PLANS COMPLIANCE INSPECTION
FOR POST CONSTRUCTION BEST
MANAGEMENT PRACTICES

WHEREAS, the Lodi Municipal Code requires the City Council, by resolution, to set fees for various services provided by the City of Lodi to recover those costs associated with providing specific services and programs; and

WHEREAS, the State Water Resources Control Board issued the City of Lodi Permit WDID No. 5B39NP00028 that governs the discharge of storm water runoff: and

WHEREAS, the permit requires inspections of the Best Management Practices (BMPs) required by the Standards during construction and annually thereafter to confirm they are being correctly maintained and operated; and

WHEREAS, the construction inspection fee was adopted by City Council on April 18, 2007, and is currently $122 per site per visit; and

WHEREAS, staff recommends a post-construction fee of $122 per site per year, assuming a single visit is required. The property owner would be billed after each inspection. Should a site require multiple inspections, that expense would also be billed.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council finds as follows:

1. That the establishment of a fee for Storm Drainage Development Standard Plans compliance inspection for post construction BMPs is necessary to insure that the BMPs are being correctly maintained and operated; and

2. That the post-construction fee will be **$122** per site per year, assuming a single visit is required. The property owner will be billed after each inspection. Should a site require multiple inspections, that expense would also be billed: and

3. That the fee will become effective 30 days after the date of adoption of this resolution and that the fee will be annually adjusted on July 1, using the Consumer Price Index (San Francisco, Urban, unadjusted); and

4. That all resolutions or parts of resolutions in conflict herewith are repealed insofar as such conflict may exist; and

5. That this resolution shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect immediately upon its adoption.

Dated: September 3, 2008

I hereby certify that Resolution No. 2008-180 was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 3, 2008, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Johnson, Katzakian, and Mayor Mounce

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

RANDI JOHL
City Clerk

Regional Water Quality Board
Minimum Mandatory Penalties (MMP's)
White Slough Water Pollution Control Facility
August 2008

What is a Minimum Mandatory Penalty (MMP)?

- SB 709 – Effective January 1, 2000
  - Require Minimum Mandatory Penalties or (MMP's) for Certain Violations of the California Water Code
  - Minimum Penalties are $3,000 per Qualifying Violation
  - From 2000 to 2008 Board Enforcement of MMP's was Minimal Due to Staffing Restrictions

Lodi's Administrative Civil Liability Complaint (Fine for Discharge Violations 2000-2008)

- Discharge Violations Summary
  - 71 Total Violations
  - Coliform
  - Total Suspended Solids (TSS)
  - pH
- Three Major Plant Upgrades
- Conversion from Chlorine to UV Disinfection

Lodi's Administrative Civil Liability Complaint (Fine for Discharge Violations 2000 - 2008)

- Board Issued Draft ACLC in May
  - Alleged 53 of 71 Violations Qualified for MMP's
  - $153,000
- City Responded to Board in June
  - Contended only 2 Violations Qualified for MMP's
  - $6,000
- Board Issues Final ACLC in August
  - Claimed a total of 7 Violations Qualified
  - $21,000

Lodi's Administrative Civil Liability Complaint (Fine for Discharge Violations 2000-2008)

- Reasons for Reduced Violations/ Fine
  - Monitoring Errors and Minor Process Upsets During Facilities Start Up
  - Board Originally Mis-Interpreted Previous Permit
  - Good Documentation by Staff of Issues During Start Up
  - Credible Relationship with Board

Lodi's Administrative Civil Liability Complaint (Fine for Discharge Violations 2000-2008)

- City has Three Options:
  - Pay Fine by September 15, 2008
  - Enter Into Settlement Discussions
  - Contest the Complaint and Enter Into Settlement Discussions
- Staff Recommends to Pay Fine
  - Costs Associated with Contesting will Likely Exceed Reduced Fine.
  - Process Could Compromise City's Relationship With the Board

QUESTIONS

Lodi's Administrative Civil Liability Complaint (Fine for Discharge Violations 2000-2008)

- Reasons for Reduced Violations
  - Staff Over-Reporting (UV Start Up)
  - Board Interpretation of Previous Permit
  - Violation Frequency
- Reasons for Reduction in Fine
  - Board Considered Additional Information Related to Several of the Violations
  - Good Documentation by Staff
  - Credible Relationship with Board

Please immediately confirm receipt of this fax *by calling 333-6702*

1

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: **PUBLIC HEARING TO CONSIDER RESOLUTION SETTING FEE FOR STORM DRAINAGE DEVELOPMENT STANDARD PLANS COMPLIANCE INSPECTION FOR POST CONSTRUCTION BEST MANAGEMENT PRACTICES AS REQUIRED IN THE STANDARDS**

PUBLISH DATE: **SATURDAY, AUGUST 23,2008**

LEGAL AD

TEAR SHEETS WANTED: **One (1) please**

SEND AFFIDAVIT AND BILL TO:
RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, AUGUST 21,2008

ORDERED BY:
RANDI **JOHL**
CITY CLERK

Jennifer M. Perrin

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

Faxed to the Sentinel at 369-1084 at 8:10am (time) on 8/20/08 (date) 2 (pages)
LNS Phoned to confirm receipt of all pages at ____ (time) ____ JLT ____ DRC ____ JMP (initials)

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DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER RESOLUTION SETTING FEE FOR STORM DRAINAGE DEVELOPMENT STANDARD PLANS COMPLIANCE INSPECTION FOR POST CONSTRUCTION BEST MANAGEMENT PRACTICES AS REQUIRED IN THE STANDARDS

On Friday, August 22, 2008, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider resolution setting fee for Storm Drainage Development Standard Plans compliance inspection for post construction best management practices as required in the Standards (attached and marked as Exhibit A) was posted at the following locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 22, 2008, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: September 3, 2008

Time: 7:00 p.m.

For information regarding this notice please contact:
Randi Johl,
City Clerk
Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, September** 3, **2008,** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

a) Consider resolution setting fee for Storm Drainage Development Standard Plans compliance inspection for post construction best management practices as required in the Standards.

Information regarding this item may be obtained in the Public Works Department, 221 West Pine Street, Lodi, (209) 333-6706. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: August 20,2008

Approved as to form:

D. Stephen Schwabauer
City Attorney

Please immediately confirm receipt of this fax *by calling 333-6702*

CITY OF LODI
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: **RESOLUTION NO. 2008-180 SETTING FEE FOR STORM DRAINAGE DEVELOPMENT STANDARD PLANS COMPLIANCE INSPECTION**

PUBLISH DATE: **SATURDAY, SEPTEMBER 6,2008**

LEGAL AD

TEAR SHEETS WANTED: Three (3) **please**

SEND AFFIDAVIT AND BILL TO: RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, SEPTEMBER 4,2008

ORDERED **BY:** RANDI JOHL
CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

Faxed to the Sentinel at 369-1084 at 1:30pm (time) on 9/4/08 (date) 3 (pages)
LNS _____ Phoned to confirm receipt of all pages at _____(time) ___JLT ___DRC ___JMP (Initials)

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PROOF OF PUBLICATION

(2015.5 C.C.C.P.)

STATE OF CALIFORNIA

County of San Joaquin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Lodi News-Sentinel, a newspaper of general circulation, printed and published daily except Sundays and holidays, in the City of Lodi, California, County of San Joaquin and which newspaper had been adjudicated a newspaper of general circulation by the Superior Court, Department **3,** of the County of San Joaquin, State of California, under the date of May 26th, 1953. Case Number 65990; that the notice of which the annexed is a printed copy (set in type not smaller than non-pareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereto on the following dates to-wit:

September 9th,

all in the year 2008.

I certify (or declare) under the penalty of perjury hat the foregoing is true and correct.

Dated at Lodi, California, this 9th day o September 2008.

Diana Rosales .....

Signature

This space is for the County Clerk's Filing Stamp

'roof of Publication

Resolution No. 2008-180 Setting Fee for Storm Drainage Development Standard Plans Compliance Inspection

RESOLUTION NO. 2008-180

A RESOLUTION OF THE LODI CITY COUNCIL SETTING FEE FOR STORM DRAINAGE DEVELOPMENT STANDARD PLANS COMPLIANCE INSPECTION FOR POST CONSTRUCTION BEST MANAGEMENT PRACTICES

WHEREAS, the Lodi Municipal Code requires the City Council, by resolution, to set fees for various services provided by the City of Lodi to recover those costs associated with providing specific services and programs; and

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AYES COUNCIL MEMBERS – Hansen, Hitchcock, Johnson. Katzakian, and Mayor Mounce

NOES: COUNCIL MEMBERS – None

ABSENT COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

RANDI JOHL
City Clerk
September 9, 2008 – 30609

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