

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MARCH 10, 2020**

A. Call to Order / Roll Call

The Special City Council meeting of March 10, 2020, was called to order by Mayor Kuehne at 7:31 a.m.

Present: Council Member Chandler, Council Member Mounce, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Absent: None

Also Present: City Manager Schwabauer, City Attorney Magdich, and Assistant City Clerk Farris

B. Consent Calendar

B-1 Provide Direction to Staff Regarding Vacant Seat on the City Council (CM)

City Manager Schwabauer provided a presentation regarding options for the current vacant seat on the City Council. Specific topics of discussion included three seats currently elected by district with remaining two seats currently elected at large and to be elected by district in November; the vacant seat was elected at large and would be filled at large; not enough time before November election to call a special election; three options for vacant seat: fill by appointment, call a special election, or do nothing; a special election would be confusing to the citizens as an at-large seat would be elected but never seated as the seat will be by district following the election; filling the seat by appointment has the negative image of affecting the election; doing nothing is not covered by legislation; and staff does not recommend a special election.

Council Member Chandler inquired as to the ramifications of the doing-nothing option, to which City Attorney Magdich replied that legislation mandates filling the vacancy by appointment or special election. She cautioned that if the City Council does nothing to fill the vacancy, a registered voter could file a writ of mandate asking for the court to order the City to fill the vacancy, and there would be costs associated with defending the matter in court, plus potentially liability for the filer's costs.

Council Member Mounce stated that situation would only occur if someone filed and the judge in the case agreed. She further stated that she feels it is not fair to appoint someone, as the public has no voice in the decision, it is not open and honest, often friends and associates are appointed, and she does not want to give the appearance of cronyism. She stated that if the City is sued, then she would prefer to appoint a previous Council Member, as they would already be experienced and not have a huge learning curve to overcome during a short appointment period.

City Attorney Magdich provided a recap of the procedure followed to appoint a replacement to the seat vacated due to Judge Warner's appointment to the bench in February 1998: applications were received from interested citizens for a period of one week; Council ranked applications; the City Clerk called a Special Meeting to interview the top three applicants; a week later, Council filled the vacancy; and the appointee held the seat until the election was held in November 1998.

Mayor Kuehne stated that he felt a special election was a waste of taxpayer money and that he did not support doing nothing because of the potential of a law suit. He felt appointing a replacement would be best, with a two-week application period. He further stated that appointing a former Council Member would be good, but he did not feel that it would be fair to limit the

application process solely to former Council Members.

Mayor Pro Tempore Nakanishi stated that he supports doing nothing; making an appointment to fill the vacancy gives the appearance of Council Members running things; citizens should elect Council Members; appointees have no accountability to the electorate; and if someone sues the City, then we should hold an election.

Myrna Wetzel, member of the public, suggested writing down all of the options, putting them in a box, and randomly choosing one of the options.

Mike Lusk, member of the public, stated that when the City went to by-district elections, Districts 4 and 5 were exempted due to respect for the incumbents; however, now that there is a vacancy, it should be filled from District 5, rather than at large.

City Attorney Magdich clarified that because Bob Johnson was elected at large, then it is an at large position; there is no legal requirement to choose someone from District 5; if the vacancy had occurred in District 1, 2, or 3, then it would have had to be filled by district.

Mr. Lusk stated he disagrees with the vacancy being at large; leaving the seat open is fine with him; and 1998 should not be held as a precedent as all seats were at large at that time. City Attorney Magdich clarified that the City will not be fully converted to districts until after the 2020 election.

Alex Aliferis, member of the public, stated that he believed the fair thing is to do nothing; the appointment process to City boards and commissions is an example of cronyism and the same would take place on the Council Member appointment; and appointing someone would give them an unfair advantage at the election in November.

Mayor Kuehne stated he does not think doing nothing is a good option; his choice would be to appoint someone not from District 5; and he has concerns about having a quorum for meetings.

In response to Council Member Mounce, City Attorney Magdich stated there were no cancellations due to a lack of quorum in 2020, there were three Shirtsleeve cancellations in 2019, and one Shirtsleeve/Special Meeting cancellation in 2017.

Mayor Kuehne made a motion to fill the vacancy by appointment, with a two-week application period. The motion died for lack of a second.

City Manager Schwabauer confirmed that Council direction at this time is to do nothing regarding the vacant seat.

C. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 8:02 a.m.

ATTEST:

Pamela M. Farris
Assistant City Clerk