

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, NOVEMBER 4, 2020**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of November 4, 2020, was called to order by Mayor Kuehne at 6:00 p.m.

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

Absent: Council Member Mounce

Also Present: City Manager Schwabauer, City Attorney Magdich, and City Clerk Cusmir

Due to the COVID-19 pandemic and pursuant to Executive Order N-29-20, all Council Members participated in the meeting via teleconference.

C-2 Announcement of Closed Session

- a) Pursuant to Government Code §54956.9(d)(4); Conference with Legal Counsel; Anticipated Initiation of Litigation against Shell Oil Company, Individually and dba Shell Chemical Company; The Dow Chemical Company; Dow Agrosiences LLC; Occidental Chemical Corporation, Individually and Formerly Known as Occidental Chemical Company; Occidental Petroleum Corporation; and Such Others as May be Discovered for Environmental Contamination; One Potential Case (CA)

C-3 Adjourn to Closed Session

The Closed Session adjourned at 6:51 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:00, Mayor Kuehne called the Regular City Council meeting to order, and City Attorney Magdich disclosed the following actions.

Item C-2a), Pursuant to Government Code §54956.9(d)(4); Conference with Legal Counsel; Anticipated Initiation of Litigation against Shell Oil Company, Individually and dba Shell Chemical Company; The Dow Chemical Company; Dow Agrosiences LLC; Occidental Chemical Corporation, Individually and Formerly Known as Occidental Chemical Company; Occidental Petroleum Corporation; and Such Others as May be Discovered for Environmental Contamination; One Potential Case

Following discussion, Council gave direction to commence litigation against Shell Oil Company, individually and dba Shell Chemical Company; the Dow Chemical Company; Dow Agrosiences LLC; Occidental Chemical Corporation, individually and formerly known as Occidental Chemical Company; Occidental Petroleum Corporation; and such others as may be discovered for environmental contamination. Council also gave direction to authorize City Attorney Magdich to enter into a fee agreement with the law firm of Miller Axline & Sawyer for legal services concerning the litigation. City Attorney Magdich noted that although this litigation is regarding environmental contamination, the City of Lodi's drinking water is safe and a press release went out regarding water quality on Friday, October 30. This litigation concerns a chemical that needs treatment through the City's wells and the City is seeking to recover the cost of that treatment from the companies that sold the contaminant to individuals within the area.

A. Call to Order / Roll Call

The Regular City Council meeting of November 4, 2020, was called to order by Mayor Kuehne at 7:00 p.m.

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

Absent: Council Member Mounce

Also Present: City Manager Schwabauer, City Attorney Magdich, and City Clerk Cusmir

Due to the COVID-19 pandemic and pursuant to Executive Order N-29-20, all Council Members participated in the meeting via teleconference and the meeting was available for viewing by the public via livestream at <https://www.facebook.com/CityofLodi/> and <https://zoom.us/j/97854687709?pwd=bEE3cy90K09WSzNMQWIsZFFNSIN6Zz09>; the opportunity for public comment was available through [councilcomments@lodi.gov](mailto:councilcomments@lodi.gov) and <https://zoom.us/j/97854687709?pwd=bEE3cy90K09WSzNMQWIsZFFNSIN6Zz09>.

B. Presentations

B-1 Small Business Saturday Proclamation (CLK)

Mayor Kuehne presented a proclamation to Dave Kirsten, Board Member of the Downtown Business Alliance of Lodi, proclaiming November 28, 2020, as Small Business Saturday in Lodi.

C. Consent Calendar (Reading; Comments by the Public; Council Action) All matters listed on the consent calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion of these items. If a member of the public would like a consent calendar item pulled and discussed separately, refer to the Special Teleconference Notice at the beginning of this agenda.

Council Member Chandler made a motion, second by Mayor Pro Tempore Nakanishi, 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 Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: None

Absent: Council Member Mounce

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

C-1 Receive Register of Claims for October 2, 2020 through October 15, 2020 in the Amount of \$3,615,612.98 (FIN)

Claims were approved in the amount of \$3,615,612.98.

C-2 Approve Minutes (CLK)

The minutes of October 7, 2020 (Regular Meeting), October 13, 2020 (Shirtsleeve Session), October 20, 2020 (Shirtsleeve Session), October 21, 2020 (Regular Meeting), and October 27, 2020 (Shirtsleeve Session) were approved as written.

C-3 Accept the Quarterly Investment Report as Required by the City of Lodi Investment Policy (FIN)

Accepted the Quarterly Investment Report as required by the City of Lodi Investment Policy.

C-4 Accept the Quarterly Report of Purchases between \$10,000 and \$20,000 (FIN)

Accepted the Quarterly Report of Purchases between \$10,000 and \$20,000.

C-5 Adopt Resolution Authorizing City Manager to Accept a Cash Donation of \$25,747.39 from Lodi Police Foundation, Designating Disposition of Donated Funds for Purchase of Equipment and Installation for a Command Vehicle and Appropriate Funds (PD)

Adopted Resolution No. 2020-244 authorizing the City Manager to accept a cash donation of \$25,747.39 from the Lodi Police Foundation, designating disposition of donated funds for purchase of equipment and installation for a command vehicle, and appropriating funds.

C-6 Adopt Resolution Authorizing City Manager to Execute Amendment No. 1 to Extend Professional Services Agreement Three Years and Change Authorized Amount with CityBase, of Chicago, Illinois, for Payment Kiosk Services (FIN)

Adopted Resolution No. 2020-245 authorizing the City Manager to execute Amendment No. 1 to extend the Professional Services Agreement three years and change authorized amount with CityBase, of Chicago, Illinois, for payment kiosk services.

C-7 Adopt Resolution Authorizing City Manager to Enter into Professional Services Agreement with Avery and Associates for Executive Level Recruitments (\$21,900 per Recruitment) (HR)

This item was pulled from the Consent Calendar at the request of Council Member Chandler.

Council Member Chandler asked which positions were qualified as executive and how many position would require recruitment in 2021 compared to 2020.

City Manager Schwabauer stated that there is currently one department head vacancy in the Fire Department. Deputy City Manager Keys noted that having a contract in place allows recruitments to move forward without delay.

Council Member Chandler made a motion, second by Mayor Pro Tempore Nakanishi, to adopt Resolution No. 2020-246 authorizing the City Manager to enter into a Professional Services Agreement with Avery and Associates for executive level recruitments, in the amount of \$21,900 per recruitment.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: None

Absent: Council Member Mounce

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

- C-8 Adopt Resolution Authorizing City Manager to Waive Bid Process and Execute Professional Services Agreement with Westmatic Corporation, of Torrance, for Municipal Utilities Services Center Bus Wash Upgrade Project (\$136,000) (PW)

Adopted Resolution No. 2020-247 authorizing the City Manager to waive bid process and execute a Professional Services Agreement with Westmatic Corporation, of Torrance, for Municipal Utilities Services Center Bus Wash Upgrade Project, in the amount of \$136,000.

- C-9 Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with Robertson-Bryan, Inc., of Elk Grove, for Wastewater National Pollutant Discharge Elimination System Permit Whole Effluent Toxicity Regulatory Compliance Services for White Slough Water Pollution Control Facility (\$69,033) (PW)

Adopted Resolution No. 2020-248 authorizing the City Manager to execute a Professional Services Agreement with Robertson-Bryan, Inc., of Elk Grove, for Wastewater National Pollutant Discharge Elimination System Permit Whole Effluent Toxicity Regulatory Compliance Services for White Slough Water Pollution Control Facility, in the amount of \$69,033.

- C-10 Adopt Resolution Authorizing City Manager to Execute Amendment No. 1 to Extend Professional Services Agreement Three Years and Change Authorized Amount with Invoice Cloud, of Braintree, Massachusetts, for Online, Mobile, and Interactive Voice Response Utility Services (FIN)

Adopted Resolution No. 2020-249 authorizing the City Manager to execute Amendment No. 1 to extend the Professional Services Agreement three years and change the authorized amount with Invoice Cloud, of Braintree, Massachusetts, for online, mobile, and interactive voice response utility services.

- C-11 Adopt Resolution Authorizing City Manager to Execute Amendment No. 1 to Professional Services Agreement with Telstar Instruments, of Concord, for Supervisory Control and Data Acquisition and Instrumentation Maintenance (\$130,000) (PW)

Adopted Resolution No. 2020-250 authorizing the City Manager to execute Amendment No. 1 to the Professional Services Agreement with Telstar Instruments, of Concord, for supervisory control and data acquisition (SCADA) and instrumentation maintenance, in the amount of \$130,000.

- C-12 Adopt Resolution Approving Agreement with Adventist Health Lodi Memorial for Occupational Medical Services Effective September 1, 2020 to November 7, 2025, and Further Authorize City Manager to Execute Agreement (HR)

Adopted Resolution No. 2020-251 approving agreement with Adventist Health Lodi Memorial for occupational medical services effective September 1, 2020 to November 7, 2025, and further authorizing the City Manager to execute the agreement.

- C-13 Adopt Resolution Authorizing City Manager to Execute First Amendment to Second Amended and Restated Ground Lease with Northern California Power Agency (PW)

Adopted Resolution No. 2020-252 authorizing the City Manager to execute First Amendment to Second Amended and Restated Ground Lease with Northern California Power Agency.

- C-14 Adopt Resolution Rescinding Resolution No. 2020-99 and Approving Phase II Subsurface Investigation and Report at 301 East Lodi Avenue for Homeless Emergency Aid Program (HEAP) Project (CD)

Adopted Resolution No. 2020-253 rescinding Resolution No. 2020-99 and approving Phase II subsurface investigation and report at 301 East Lodi Avenue for Homeless Emergency Aid Program (HEAP) Project.

C-15 Adopt Resolution Reaffirming Ratification of City Manager's Proclamation Finding Continued Existence of Local Emergency and Rendering Certain Emergency Orders, Including an Increase Related to the Local Emergency in the City Manager's Contracting Authority for Services and Goods to a Maximum Amount of \$250,000 for the Duration of the Local Emergency (CA)

Adopted Resolution No. 2020-254 reaffirming ratification of the City Manager's proclamation finding continued existence of local emergency and rendering certain emergency orders, including an increase related to the local emergency in the City Manager's contracting authority for services and goods to a maximum amount of \$250,000 for the duration of the local emergency.

C-16 Adopt Resolution Approving Purchase of New Computers and Peripherals for Community Development Department from CDWG (\$34,400.34) (CD)

Adopted Resolution No. 2020-255 approving purchase of new computers and peripherals for Community Development Department from CDWG, in the amount of \$34,400.34.

C-17 Set Public Hearing for November 18, 2020 to Consider Adopting Resolution Setting San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees for 2021 (CD)

Set public hearing for November 18, 2020 to consider adopting resolution setting San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees for 2021.

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.

Spencer Dayton, a resident, provided public comment. Mr. Dayton inquired about an email that he had sent the City Council and City Manager regarding a proclamation.

City Manager Schwabauer apologized and stated he would look through his email inbox and spam filter for Mr. Dayton's email. City Manager Schwabauer said that it is the City's intent to respond to every email received from citizens.

City Clerk Cusmir read two public comments provided via email into the record.

Alex Aliferis stated that he believes Governor Newsom's Executive Orders regarding COVID-19 were struck down in court and requested that the City open the Lodi Public Library and City Council Meetings with no restrictions.

City Attorney Magdich explained that there is a misunderstanding regarding the order handed down by Judge Heckman who sits on the Superior Court of Sutter County. City Attorney Magdich said the order addressed one of Governor Newsom's Executive Orders; the order that ballots be sent by mail to all registered voters in the State. The public health orders are still valid and effective and a federal court judge in Sacramento ruled last week that public health orders are necessary and Constitutional and that a challenge that was brought against those orders did

not have a Constitutional standing. The challenge was dismissed.

City Manager Schwabauer stated that under the public health order, libraries may reopen however, libraries have a significant level of regulatory requirements they must meet in order to open. The City is working with an industrial hygienist to create a system that will allow the Lodi Public Library to operate within the requirements of the order and that establishing those systems will take time. City Manager Schwabauer explained the reason the requirements are stringent is because the library services a high-risk population.

An anonymous individual commented on the outcome of the 2020 General Election.

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

Mayor Pro Tempore Nakanishi acknowledged the historic election that took place on Tuesday, November 3rd and noted that there was still no definitive outcome for the Presidential election or the City Council election. He asked that the City Council look forward to the challenges they will face in 2021: COVID-19, the economy, and homelessness.

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

There were no comments from the City Manager.

G. Public Hearings

G-1 Public Hearing to Consider Adopting Resolution Approving 2020-21 CDBG Annual Action Plan Amendment No. 1 for Community Development Block Grant (CDBG) Program (CD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Kuehne called for the public hearing to consider adopting resolution approving 2020-21 CDBG Annual Action Plan Amendment No. 1 for Community Development Block Grant (CDBG) Program.

Chance Finley-Ross, of Michael Baker International, provided a PowerPoint presentation regarding CDBG Annual Action Plan Amendment No. 1. Specific topics of discussion included sources for reallocation, uses of reallocation, public review and comment period, and requested action.

Mayor Kuehne opened the public hearing for public comment.

There being no public comments, Mayor Kuehne closed the public hearing.

Mayor Pro Tempore Nakanishi made a motion, second by Council Member Chandler, to adopt Resolution No. 2020-256 approving 2020-21 CDBG Annual Action Plan Amendment No. 1 for Community Development Block Grant (CDBG) Program.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: None

Absent: Council Member Mounce

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

H. Regular Calendar

H-1 Receive Presentation on San Joaquin Community Response to Homelessness - 2020 San Joaquin Strategic Plan and Adopt Resolution Supporting Plan (CD)

Jon Mendelson, Chair of the San Joaquin County Continuum of Care, provided a PowerPoint presentation regarding the San Joaquin Community Response to Homelessness - 2020 San Joaquin County Strategic Plan. Specific topics of discussion included overview; timelines; Goal 1 - Establish a coordinated and engaged regional system of care; Goal 1 measures of success; Goal 2 - Increase access and reduce barriers to homeless crisis response services; Goal 2 measures of success; Goal 3 - Ensure access to affordable and sustainable permanent housing solutions; Goal 3 measures of success; and implementation addendum.

Mayor Kuehne asked about the cost of implementing the plan. Mr. Mendelson said it would be quite expensive to implement everything outlined in the plan and he is not suggesting everything in the plan can be done all at once. Mr. Mendelson spoke about focusing on other aspects of crisis response to begin working on the homelessness problem. He noted that supporting the plan does not obligate the City to spend money on any particular project and each community needs to work to meet local needs.

Mayor Kuehne said that the City is working to try to prevent homelessness and appreciates the plan, which can be used as a roadmap.

Mayor Pro Tempore Nakanishi voice his support of the plan and using it as a guideline.

Council Member Chandler commended the work that has been done on the plan and voiced his support of the plan. He said the plan is realistic about what can be achieved and the City would continue to look for funding to implement programs and services.

Council Member Chandler made a motion, second by Mayor Pro Tempore Nakanishi, to adopt Resolution No. 2020-257 supporting the San Joaquin Community Response to Homelessness - 2020 San Joaquin Strategic Plan.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: None

Absent: Council Member Mounce

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

H-2 Adopt Resolution Approving Classification, Job Description and Salary Range of New Position of Utility Warehouse Supervisor and Add One Utility Warehouse Supervisor and Delete One Field Services Representative Position in Electric Utility Department (HR)

Human Resources Manager Adele Post provided a presentation on the classification, job description, and salary range for the new position of Utility Warehouse Supervisor. Specific topics of discussion included the budget for the Electric Utility warehouse, the recent audit that resulted in the recommendation to improve the processing of inventory, the supervisorial duties that will be part of the position, the current organizational structure of the department, and the proposed salary. Human Resources Manager Post stated the proposed job description and salary

range were presented to the I.B.E.W. and that they are in agreement with the position as proposed.

Mayor Pro Tempore Nakanishi spoke about the efficiency and important of the Electric Utility. Council Member Chandler agreed.

Mayor Pro Tempore Nakanishi made a motion, second by Council Member Chandler, to adopt Resolution No. 2020-258 approving classification, job description, and salary range of new position of Utility Warehouse Supervisor, add one Utility Warehouse Supervisor, and delete one Field Services Representative Position in Electric Utility Department.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: None

Absent: Council Member Mounce

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

H-3 Adopt Resolution Approving Classification, Job Description and Salary Range of Literacy and Program Manager and Approving Reclassification of One Literacy/Volunteer Manager to Literacy and Program Manager and to Add One Literacy and Program Manager Position and Delete One Literacy/Volunteer Manager Position in Library Department (HR)

Human Resources Manager Adele Post provided a presentation on the classification, job description, and salary range of the position of Literacy and Program Manager. Specific topics of discussion included the request to reclassify a current employee into the position, the temporary upgrade that the employee is receiving for performing higher-level duties outside of their current job description, and the salary range. Human Recourses Manager Post stated that the job description, reclassification, and salary range were presented to the Lodi Mid-Managers Association and they are in agreement with the proposal.

Mayor Pro Tempore Nakanishi spoke about the importance of the Library and efforts to improve efficiencies. Council Member Chandler agreed.

Mayor Pro Tempore Nakanishi made a motion, second by Council Member Chandler, to adopt Resolution No. 2020-259 approving classification, job description and salary range of Literacy and Program Manager and approving reclassification of one Literacy/Volunteer Manager to Literacy and Program Manager and adding one Literacy and Program Manager Position and deleting one Literacy/Volunteer Manager position in Library Department.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: None

Absent: Council Member Mounce

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

H-4 Adopt Resolution Approving Classification, Job Description and Salary Range of Junior Transportation Planner in Public Works Department (HR)



Human Resources Manager Adele Post provided a presentation regarding the classification, job description, and salary range of the position of Junior Transportation Planner in the Public Works Department. Specific topics of discussion included information about the Transit Division in Public Works, the desire to create the entry-level position to provide for growth and opportunities for junior level staff, and how the position will be filled.

Mayor Pro Tempore Nakanishi made a motion, second by Council Member Chandler, to adopt Resolution No. 2020-260 approving classification, job description, and salary range of the position of Junior Transportation Planner in Public Works Department.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: None

Absent: Council Member Mounce

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

H-5 Adopt Resolution Approving Retitle and Amendment of Parks Superintendent Job Description and Addition of One Parks and Properties Superintendent in Parks, Recreation and Cultural Services Department (HR)

This item was pulled from the agenda.

H-6 Adopt Resolution Approving Side-Letter Agreement Amending Memorandum of Understanding Between City of Lodi and International Brotherhood of Electrical Workers Regarding Overtime for Employees (HR)

Human Resources Manager Adele Post provided a presentation regarding the side-letter agreement amending the Memorandum of Understanding with the International Brotherhood of Electrical Workers (IBEW). Specific topics of discussion included information about the labor market for journeyman level Electrical Utility employees, the challenges the City has faced trying to fill position for and to retain lineworkers, and the changes staff is proposing to help fill and retain journeyman level Electrical Utility employees.

Mayor Pro Tempore Nakanishi stated that Lodi Electric Utility employees were leaving for other companies and since Lodi wants a well-run utility, these changes are needed.

Council Member Chandler spoke about reports Council has received from Utility Director Jeff Berkheimer and the Northern California Power Agency Board. Council Member Chandler explained that utility power companies are luring employees away and supports the changes needed to retain and attract employees. He noted that this is not only an issue of cost, but also a safety issue.

Mayor Kuehne agreed.

Council Member Chandler made a motion, second by Mayor Pro Tempore Nakanishi, adopt Resolution No. 2020-261 approving side-letter agreement amending Memorandum of Understanding between City of Lodi and International Brotherhood of Electrical Workers regarding overtime for employees.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Chandler, Mayor Pro Tempore Nakanishi, and Mayor Kuehne

Noes: None

Absent: Council Member Mounce

ROLL CALL VOTE

The City Council held a ROLL CALL vote (all voiced their votes).

I. Ordinances – None

J. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 8:20 p.m.

ATTEST:

Jennifer Cusmir  
City Clerk