



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: *Request for Attorney General's Opinion Regarding the Applicability of Public Resources Code § 5164 and Education Code § 10911.5 to City Parks and Recreation Youth Sports Programs and the Boosters of Boys and Girls Sports (BOBS)*

MEETING DATE: June 07, 1995

PREPARED BY: Deputy City Attorney

RECOMMENDATION: That the City Attorney's Office request an Attorney General's opinion regarding the applicability of Public Resources Code § 5164 and Education Code § 10911.5 to City Parks and Recreation youth sports programs and the Boosters of Boys and Girls Sports (BOBS).

BACKGROUND: State law which became effective on January 1, 1993 requires that all adult city employees or volunteers in a supervisory or disciplinary position over minors be screened for various Penal and Health and Safety Code violations. These violations include sex crimes, drug crimes and crimes of violence.

Public Resources Code § 5164 provides that no city shall use any employee or volunteer to perform services at any park, playground, recreational center or beach in a position having supervisory or disciplinary authority over minors if that person has been convicted of any of the offenses outlined in Penal Code § 11105.3(g). Such offenses include assault with intent to commit a sexual act, rape, cruelty to a child, contributing to the delinquency of a minor, felony violations of the Uniform Controlled Substances Act and other similar provisions.

Additionally, Education Code § 10911.5 provides that all cities shall require each employee or applicant for employment who will have direct contact with minors to immediately submit one set of fingerprints to the Department of Justice for screening. The result of this screening shall be

APPROVED: _____

THOMAS A. PETERSON
City Manager



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kept in a secure file, separate from the regular personnel file of the person. This requirement applies to after school, vacation sports and daycare activities.

For purposes of complying with these mandates the City is allowed to screen these persons through the Department of Justice pursuant to Penal Code § 11105.3. To perform this screening the Department of Justice requires fingerprints and personal identification information of the person to be screened in addition to a fee which is currently \$52.00 per screening. This fee is in addition to any cost incurred for the actual taking of the fingerprints.

This matter was presented to the Parks and Recreation Commission at their May 02, 1995 meeting. The commissioners were very concerned with the possible fiscal impact of this mandate as well as its probable effect on volunteerism especially if it is applied to the hundreds of volunteer coaches involved in the BOBS programs. The city and the BOBS are intertwined to such an extent that it is probable that the volunteers working under the auspices of the BOBS will have to be fingerprinted and cleared through the Department of Justice. This close partnership between the city and the BOBS is unique and not clearly addressed by the statutes at issue and there is virtually no case law directly on point.

Before the city takes any substantial steps regarding volunteer coaches in this matter I would appreciate the opportunity to obtain an opinion from the Office of the Attorney General as to the applicability of this mandate to these unique circumstances. While such an opinion does not have the force of law, reliance on the opinion would be strong evidence of the city's good faith attempt to comply with the mandate.

FUNDING: Not applicable at this time.

Respectfully submitted,


John M. Luebberke
Deputy City Attorney

JML:pn

APPROVED: _____

THOMAS A. PETERSON
City Manager

RESOLUTION NO. 95-74

A RESOLUTION OF THE LODI CITY COUNCIL
AWARDING THE BID FOR ABANDONED VEHICLE TOWING FRANCHISE

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on April 17, 1995 at 11:00 a.m. for the bid for Abandoned Vehicle Towing Franchise, described in the specifications therefor approved by the City Council in February, 1995; and

WHEREAS, said bids have been compared, checked, and tabulated and a report thereof filed with the City Manager as follows:

<u>Bidder</u>	<u>Location</u>	<u>Bid Amount</u>
Pacific Towing	Stockton	Action within 72 hours after order. Storage maximum 45 days. Cost \$12.50 per vehicle paid to the City on 15th of each month.
Stubbs Pro Tow	Lodi	No cost to City, action within 48 hours after order.

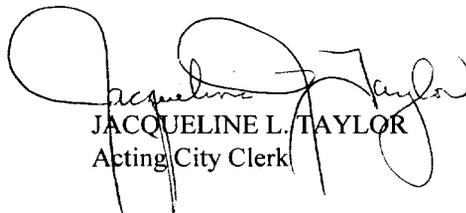
WHEREAS, it is staff recommendation to accept the bid of Stubbs Pro Tow at no cost to the City for a period of two (2) years; and

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that award of the bid for Abandoned Vehicle Towing Franchise be and the same is hereby awarded to Stubbs Pro Tow of Lodi, California for a period of two (2) years.

Dated: June 7, 1995

I hereby certify that Resolution No. 95-74 was passed and adopted by the City Council of the City of Lodi in a regular meeting held June 7, 1995 by the following vote:

AYES: Council Members - Pennino, Sieglock, Warner and Mann (Mayor)
NOES: Council Members - Davenport
ABSENT: Council Members - None
ABSTAIN: Council Members - None


JACQUELINE L. TAYLOR
Acting City Clerk