

C O U N C I L C O M M U N I C A T I O N

TO: THE CITY COUNCIL
FROM: THE CITY MANAGER'S OFFICE

COUNCIL MEETING DATE
JANUARY 16, 1991

SUBJECT: DONATIONS OF OUT-OF-SERVICE POLICE VEHICLES

PREPARED BY: City Manager

RECOMMENDED ACTION: That the City Council authorize the donation of two out-of-service City of Lodi police patrol units to the San Joaquin Delta College Police Academy.

BACKGROUND INFORMATION: The City has been requested by the San Joaquin Delta College Police Academy to donate to the academy two police patrol units at such time as these units are taken out of service and replaced by newer units. The City has two police patrol units which are being removed from service this week and will be available in response to this request. The vehicles would be used by students at the academy as part of the "hands on" training program. Normally, such units would be offered for sale at auction at under \$1,000 each. The Police Department puts between 100,000 and 110,000 miles on these vehicles, so there is not much left in them when they are offered for sale.

While the City Attorney has deemed this to be a legal action on the City Council's part, he cautions, and I concur, that we monitor these types of requests closely so as not to establish a precedent.

Attached (Exhibit A) is supporting background material.

Respectfully submitted,



Thomas A. Peterson
City Manager

TAP:br

Attachment

CCCOM115

MEMORANDUM
=====

To: Jerry Glenn, Assistant City Manager
From: Bob McNatt, City Attorney
Date: December 20, 1990
Subject: DONATION OF RETIRED POLICE VEHICLES

=====

I understand from David Main's memo of December 17, 1990 that Delta College Police Academy has requested the City's donation of two police vehicles when they are taken out of service. Your questions were whether we could legally do so, and if it is possible, what procedure should be followed. This sort of request has been addressed in the past.

Attached is a council communication dated March 7, 1990 involving donation of a surplus City truck to a non-profit sport fishing group. The legal analysis would be the same in this situation as described in the March 7 communication.

Using the two-part test spelled out in 28 Ops. AG 282, we must ask:

1. Whether the money and property is to be used for a public or private purpose; and
2. If the public purpose is within the jurisdiction of the appropriating body.

In this case, I think the legal justification is even more clear-cut than with the Striped Bass Club because first, Delta Police Academy is part of Delta College, a public agency, and second, the purpose of the request is to facilitate the training of police officers including Lodi police officers.

Based on this, I believe it would be legal for the City to donate two out-of-service police vehicles. If it is to be done, it should be done by Council action as we did last time. Once again, however, I feel obligated to point out that we should consider the precedent which might be set or reinforced. I have a feeling we may begin seeing more of these types of requests.



BOB McNATT
City Attorney

cc: City Manager

=====
GIFTS6/TXTA.01V

L O D I P O L I C E D E P A R T M E N T

M e m o r a n d u m

To: Thomas A. Peterson
City Manager

From: David J. Main
Administrative Sergeant

Date: December 17, 1990

Subject: RETIRED POLICE VEHICLE DONATION

At this time I would like to request the City of Lodi donate two police cars to the San Joaquin Delta College Police Academy when these vehicles are taken out of service.

San Joaquin Delta College Police Academy has trained approximately 20 of the 40 police officers we now employ. In fact, we have hired seven officers from one particular graduate class. Currently, approximately 10 LPD personnel are instructors at the Delta Police Academy. We feel that the officers hired from this academy are a cut above the norm.

As one might expect, the cost of running a full time academy is astronomical. The academy depends upon contributions from area agencies to maintain equipment necessary for hands-on training.

One portion of the academy is a Defensive Driving course, which requires a great deal of hands-on driving on the part of the cadets. The cars currently being used by the academy are very old, and many of them are out of service. Most of the cars were obtained from Stockton Police Department, Tracy Police Department and San Joaquin County Sheriff's Department.

If the academy is to continue providing this high level training, using updated equipment, they will need additional vehicles.

This request is for two vehicles, once retired, be donated to the academy. The City of Lodi stands to gain with a continuing effort on the part of the academy to train current and future officers using the best instructors and equipment.


Sergeant David J. Main

DJM:jh

C O U N C I L C O M M U N I C A T I O N

TO: THE CITY COUNCIL
FROM: THE CITY MANAGER'S OFFICE

COUNCIL MEETING DATE
MARCH 7, 1990

SUBJECT: SURPLUS CITY TRUCK; DONATION TO ENVIRONMENTAL GROUP

PREPARED BY: City Attorney

SITUATION:

The City is presently offering for sale to the public certain used vehicles no longer required for City service. The California Striped Bass Club, a private non-profit group has made inquiry concerning one of the vehicles, a Ford flatbed truck. It is apparently the Club's desire to circumvent the public sale bid process and get the truck so that it may be presented to the United Anglers Chapter of Casa Grande High School in Petaluma. This latter group is carrying on a program to clean up Adobe Creek near Petaluma, and to reintroduce steelhead trout to the waterway. It is my understanding that the truck would be used to transport fish from the hatchery to the creek.

I am still not sure if the Striped Bass Club wants the City to donate the truck, offer it at a reduced price, or simply agree to sell it for the indicated minimum bid (\$1500) without going through the competitive bid sale procedures.

The question presented was whether this would violate the legal prohibitions against making a gift of public funds or property.

ANALYSIS:

Article 16, Section 6 of the California Constitution prohibits making a gift of public funds or property to individuals or organizations. An exception to this rule is the "public purpose" situation. In such cases, where the gift or use serves a "public purpose" (as determined by the legislative body responsible for the funds or property) it is permissible and does not violate constitutional prohibitions.

This law has been interpreted in ways which sometimes appear inconsistent to the casual observer. For example, a grant by a county for relief of victims of a flood was declared void under this Article (Patty v. Colgan 31 P.1133) but cities or counties may channel federal assistance to individuals under the Federal Disaster Relief Act (62 Ops. AG 562).

=====
SURPLUS4/TXTA.01V

Council Communication
March 7, 1990
Page Two

This illustrates the problem of determining what is a true "public purpose". The courts have said they will not overturn the determination of a legislative body in such matters "... so long as that determination has a reasonable basis" (San Francisco Board of Supervisors v. Dolan (1975) 119 Cal.Rptr. 347).

The cases found suggest that a "reasonable basis" will be found if the public purpose served is one the public agency could have acted upon directly. As stated by the California Attorney General, the test is "... whether the money or property is to be used for a public or private purpose, and if it is for a public purpose within the jurisdiction of the appropriating board or body, it is not a gift" (28 Ops. AG 282). Using this language as a guide, the question in our situation then becomes whether the City of Lodi could spend money on the cleanup of a waterway and reintroduction of game fish, since that is the purpose for which the surplus truck is sought. I believe we could do so legally.

It is my understanding that Lodi has in the past participated in both clean water and game fish protection programs, with no questions that these are "public purposes." It is also noted that the California Department of Fish and Game and Sonoma County have contributed more than \$133,000 toward this project for which the truck would be used (see attachment).

SUMMARY:

Although the subject site (Adobe Creek) is not physically within the limits of Lodi, I believe that the City could legally assist or cooperate with the organization working on the project. This appears to fit the definition of "public purpose" as defined by the courts.

In considering the request, however, the Council may wish to weigh the precedent which would be set by an affirmative vote.

Respectfully submitted,



Bob McNatt
City Attorney

BM:vc

attachment

=====
SURPLUS4/TXTA.01V