
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).

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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

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UNITED ANGLERS
OF
CASA GRANDE HIGH SCHOOL
333 CASA GRANDE ROAD, PETALUMA, CALIFORNIA 94952

February 3, 1990

Dear Sirs:

The following is an interim progress report on the United Anglers of Casa Grande High School project to rebuild their fish hatchery.

You or your organization has made a financial contribution to this rebuilding campaign which started in October 1988, and just recently received the Petaluma School Board approval to begin construction of the new facility.

The attached materials will update you on the current status. Ground breaking ceremonies are scheduled for 10:00 am. February 10, 1990 at the site. The project has received a tremendous amount of local community support, both financially and with donations of labor and materials from local businesses.

For your information the following organizations have contributed financially. All funds are deposited with the Petaluma School District.

Grants

Sonoma County Foundation
Strong Foundation
Exchange Bank Foundation
Fish America Foundation
Fireman's Fund Foundation
Petaluma Foundation
Total -- \$37,395.00

State and County Organizations

California Department of Fish and Game
Sonoma County Board of Supervisors (TOT)
California Department of Fish and Game
(Public Striped Bass Stamp Program)
Sonoma County Fish and Wildlife (Advisory Board)
Total -- \$133,641.00

Sports Clubs

Modesto California Striped Bass Association
Rio Vista California Striped Bass Association
Marin Rod and Gun Club
Petaluma Outdoorsmen
Phoenix Arizona Sportsmens Club
Stockton California Striped Bass Association
Total -- \$5300.00

Corporations

Hewlett-Packard, Santa Rosa, CA
Patagonia Inc., Ventura, CA
Chevron Corporation, San Francisco, CA
Sola Optical, Petaluma, CA
West America Bank, Petaluma, CA
Total -- \$20,000.00

Business Firms

Bodega Bay Fishermens Market Association
Petaluma Bowl
T. Robinson Graphics, Novato, CA
Clover Dairy, Petaluma, CA
P.I.P. Printing, Petaluma, CA
Benefield, Levingers & Associates, Petaluma, CA
Bob Botai Tile Co., Petaluma, CA
Total -- \$1,900.00

Organizations and Service Clubs

Bodega Bay Fishermans Associations, Ladies Auxiliary
Conservation Unlimited, Eureka, CA
Adobe Lions, Petaluma
3rd Way House of Petzluma
Petaluma Rotary
Petaluma Valley Rotary
Total -- \$6,691.00

As a result of the wide-sprezd media publicity this project has received, the Anglers have added over \$4200.00 from \$5-10-20, etc. donations from "Friends of the Project" throughout the state.

Bringing the total to date to \$209,127.00.

Project Status:

All plans have been completed and approved by the Office of the State Architect.

The well has been drilled and capped. It will produce ample water supply to meet the hatchery demands.

Construction will commence on February 12, 1990 (weather permitting), with the Sonoma County Probation Camp under the direction of Frank McEntee and D.J. DeJora handling the project with Aviala Enterprises (architect).

Furtner reports will be forthcoming with the building progress.

Should you require any additional special information, please call (707) 778-4677.

On behalf of the United Anglers of Casa Grande High School, as well as myself, "Thanks again for your support".

Tom
Tom Furrer, Advisor
United Anglers of Casa Grande
High School