

REGULAR CALENDAR The following letter was presented for Council's perusal:

"Ronald M. Stein, Esq.  
City Attorney  
City of Lodi  
Post Office Box 320  
Lodi, CA 95240

Dear Ron:

As we discussed on December 26, 1983, I am in the process of preparing the documentation to obtain a default judgment against the Willow Oaks Industrial Park for foreclosure on the two parcels owned by it. The request for Default Judgment by the Court must be accompanied by declarations setting forth the amounts owing for principal, interest and penalties.

Section 8833 of the Streets and Highways Code reads as follows:

When any foreclosure actions are ordered, the tax collector shall be credited upon the assessment rolls then in his hands for the amount charged against him on account of the assessments or reassessments to be sued on and he shall be relieved of further duty in regard thereto.

Jack Prowse has indicated that, pursuant to this section, he should be credited with the delinquent amounts and relieved of further duty to collect them. He also indicated, based on this section, an unwillingness to partake in future activities concerning the foreclosure action. He, then, cannot, and, indeed, should not, sign the declarations in support of the default judgment.

The procedure to implement Section 8833 is as follows:

The City Council should pass a resolution requesting that the County Board of Supervisors order the County Auditor to cancel the assessments and credit the tax collector with the amounts owing on principal and interest, pursuant to the Section. The City then becomes responsible for collecting the assessments and the City Finance Director can sign the required Declaration. Paul Heurlin, County Auditor, is, essentially, in agreement with Jack on this.

Therefore, if you would prepare and have the City Council pass such a resolution as soon as possible, and then forward it to the County Board for their passage, we can move on with the foreclosure process.

If you have any questions or comments, or would like to further discuss this matter, please feel free to contact me.

Very truly yours,

Ray W. Sherman, Jr.  
Profession Corporation"

RES. NO. 84-005  
ADOPTED

RESOLUTION  
ORDERING FORE-  
CLOSURE ON  
DELINQUENT  
ASSESSMENTS

Following Council discussion with questions being posed to the City Attorney, Council, on motion of Council Member Murphy, Snider second, adopted Resolution No. 84-005, a Resolution Ordering Foreclosure of Delinquent Assessments and directing that the Tax Collector shall be Credited Upon the Assessment Rolls Then in His Hands for the Amount Charged Against Him on Account of the Assessments to be sued on, Thereby Relieving the Tax Collector of Further Duty in Regard Thereto. The motion carried by unanimous vote.

RESOLUTION NO.

RESOLUTION ORDERING FORECLOSURE OF DELINQUENT ASSESSMENTS AND DIRECTING THAT THE TAX COLLECTOR SHALL BE CREDITED UPON THE ASSESSMENT ROLLS THEN IN HIS HANDS FOR THE AMOUNT CHARGED AGAINST HIM ON ACCOUNT OF THE ASSESSMENTS TO BE SUED ON, THEREBY RELIEVING THE TAX COLLECTOR OF FURTHER DUTY IN REGARD THERETO

WHEREAS, there is heretofore been duly and regularly issued and recorded an assessment for the improvement of Assessors Parcel Nos. 49-20-14 and 49-20-19 (formerly 49-20-15) under Resolution of Intention No. 81-39 of the City Council of the City of Lodi passed and adopted on the 15th day of April, 1981.

WHEREAS, installments of said assessments have not been paid at anytime; and

WHEREAS, under the provisions of Section 8830 et sec of the Streets and Highway Code of the State of California, this City Council is authorized, not later than four years after the date due of the last instalment of principal, to order the same to be collected by an action brought in the superior court to foreclose the lien thereof.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi as follows:

Section 1. The City Clerk of the City of Lodi is hereby authorized and directed to institute an action in the name of the City of Lodi to foreclose the liens of all delinquent assessment for the aforesaid improvements.

Section 2. NOW, THEREFORE, BE IT FURTHER RESOLVED, that the San Joaquin County Tax Collector shall be credited upon the assessment rolls then in his hands for the amount charged against him on account of the assessments or reassessments to be sued on and he shall be relieved of further duty in regard thereto.

Dated:

I hereby certify that Resolution No. \_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held \_\_\_\_\_ by the following vote:

Ayes: Council Members -

Noes: Council Members -

Absent: Council Members -

Alice M. Reimche  
City Clerk

RAY W. SHERMAN, JR.  
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

111 BROADWAY, PENTHOUSE  
AT JACK LONDON SQUARE  
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(415) 834-2748

RAY W. SHERMAN, JR.  
ANDREW M. ROSSOFF  
SUSAN FELLER

OF COUNSEL  
CLARK G. MCBRIP, P.C.

December 30, 1983

Ronald M. Stein, Esq.  
City Attorney  
City of Lodi  
Post Office Box 320  
Lodi, California 95241

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Page 2

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RAY W. SHERMAN, JR.  
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SUSAN FELLER

SF:cw