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CC-16
11-22(a)

CITY COUNCIL MEETING

February 2, 1983

COMMENTS BY PUBLIC ON NON AGENDA ITEMS

CITIZEN APPEARS
BEFORE THE
COUNCIL RE
CABLE VIEWING
MATERIAL

Brenton Bleier appeared before the Council suggesting that the City Council actively seek a competitive "non-pornographic" cable franchise for the City or that the City could take it upon itself to provide cable television service to its residents.

LAW OFFICES OF
BRENTON A. BLEIER

1001 G STREET, SUITE 101
SACRAMENTO, CALIFORNIA 95814
(916) 444-5994

January 20, 1983

Honorable Mayor
and City Council
City of Lodi
City Hall
Lodi, California 95240

Honorable Members in Session:

Last evening your Council voted to refer a Draft Ordinance which I had prepared dealing with a requirement for parental permission relating to the viewing of sexually exploitive cable television programming by minors to the State Attorney General for an Opinion.

I would respectfully suggest this involves a needless expenditure of City time and funds for four (4) reasons.

1. All four (4) members of your Council who were present expressed themselves as being opposed to the concept of such an Ordinance even if it were legal. Thus, assuming *arguendo* that it would be the Attorney General's Opinion that the Ordinance was proper and legal, your Council will clearly not enact such an Ordinance with its present membership. In view of your personal positions in favor of the type of programming being offered by the Playboy channel, the legality or illegality of the proposed Draft Ordinance is simply irrelevant.
2. An Opinion of the State Attorney General is of no force and effect whatever. If such an Ordinance were enacted and legal action were undertaken by the City against an individual for violating it, the Opinion of the Attorney General would place no legal restraint upon the judgment of the court. As your attorney, Mr. Stein, well knows, if the Council is inclined to take any action, the Opinion of the Attorney General cannot help the City's position but can instead only hurt it.
3. In any request from a local official for an Opinion, the Attorney General requires a brief from the submitting official arguing for the desired result, either affirmative or negative,

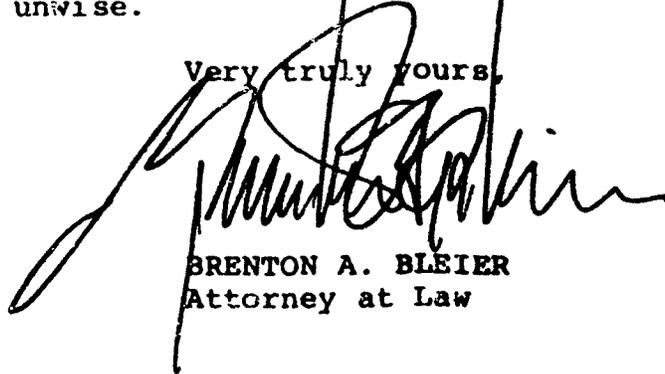
Honorable Mayor
and City Council
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to the question submitted. In this case, Mr. Stein has already argued to you eloquently in a sixteen (16) page Opinion that the proposed Ordinance is unwise. I would suspect that in good conscience Mr. Stein could submit no other position to the Attorney General. Thus, we would have the ungainly position of the City asking for a negative ruling on its own Ordinance.

4. The State has just recently elected the most liberal Attorney General in the history of the State. In view of his personal predilections, it is highly unlikely that General Van de Kamp would approve of any restraints whatever to control pornography.

For all of these reasons, the submission of the proposed Ordinance by your Council to the State Attorney General is unnecessary and unwise.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read 'Brenton A. Bleier', is written over the typed name and title.

BRENTON A. BLEIER
Attorney at Law

BAB/sk

cc: Ronald Stein, City Attorney
Henry Glaves, City Manager