

CITY COUNCIL MEETING
OCTOBER 21, 1987

13

LETTER RECEIVED
REGARDING PARK
BASIN "C"
ACQUISITION OF
PROPERTY

CC-27(a)
CC-27(c)

Following receipt of a letter from Freeman and Brown regarding Park Basin "C" acquisition of property, Council, on motion of Council Member Hinchman, Reid second, directed the City Clerk to place this matter on the agenda for the Regular Council Meeting of November 4, 1987.

Further, Council determined to hold an adjourned Regular Meeting of the Council on Tuesday, October 27, 1987 at 7:00 a.m. which will consist of a "Closed Session" concerning possible litigation regarding:

- a) "C" Basin
- b) Stapleton vs. City of Lodi

Law offices of
FREEMAN & BROWN
Professional Corporation

Maxwell M. Freeman
James Bradford Brown
Judy A. Lovett
Erik R. Anderson
Gerald A. Sperry
A. Peter Rausch, Jr.

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ALICE M. REINICHE
CITY CLERK
CITY OF LODI

October 5, 1987

Honorable Mayor Evelyn Olson
Honorable City Council Members
City of Lodi
City Hall
Lodi, California

Re: Park Basin "C"
Acquisition of Property
10 Acre Parcel

Dear Mayor and Council Members:

This office represents Mr. Daryle Geweke who is the purchaser, pursuant to a land sales contract, of three adjacent parcels of real property, Parcels #28, #29 and #30 lying to the north of Kettleman Lane, east of Highway 99 and adjacent to Lodi City limits belonging to Orrind D. Kettleman. Said contract of sale recites that "the city of Lodi is contemplating condemning approximately 10 acres of said parcel #30".

We have reviewed the Master Plan of Park Base "C" adopted by the City Council on October 15, 1986, and discussed the proposed acquisition of the portion of parcel #30 specifically, timing, configuration, use and damages.

Mr. Geweke has instructed us to attempt to minimize the adverse impacts the presently proposed acquisition would have on Parcel #30 while attempting to equitably accommodate the needs of the City of Lodi.

We subsequently contacted Mr. Ronald Stein, City Attorney, and inquired as to how soon the city needed the property, what methods were available to mitigate Mr. Geweke's damages and how could we work with the city of Lodi in the equitable resolution of these problems.

Mr. Stein advised that the City's department of Public Works wanted to proceed immediately with the acquisition of the property and the construction of the project; that as the plan had been adopted by the City Council, it could only be modified by the City Council; that we would therefore have to direct our concerns and proposals for mitigation to the City Council.

1818 Grand Canal Boulevard
Stockton, California 95207
209 474 1822
Telecopier: 209 474 1245

Reno Nevada Office
147 East Liberty Street
Reno, Nevada 89501
702 322 0606

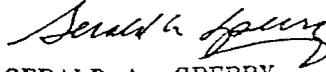
FREEMAN & BROWN

Honorable Mayor Evelyn Olson
Honorable City Council Members
October 5, 1987
Page Two

Will you please schedule this matter for discussion by the City Council as soon as mutually convenient. As resolution of these problems need to be explored through open discussion, we would suggest an initial council study session for that purpose. Unfortunately, Mr. Freeman will be out of the country until the end of October. We will be pleased at that time to present to you our concerns and our proposal to mitigate Mr. Geweke's damages while accommodating the needs of the City of Lodi.

Thank you for your consideration and cooperation. We look forward to working with you and your staff in the equitable resolution of this problem.

Very truly yours,



GERALD A. SPERRY

GAS:dm

cc: Daryle Geweke
Orrind Kettleman
Ronald Stein

*This item will appear under "Communications"
on the 10/21/87 agenda*

C-DRAINAGE BASIN

December 1985 City allocated funds for design of C-Basin/Park.

Early 1986 City retained Richard Bigler to provide landscape design on C and E Basins.

June 1986 Public hearings held by Park and Recreation Commission on C-Basin design.

September 2, 1986 Park and Recreation Commission recommended to City Council that C-Basin design be approved.

October 15, 1986 City Council approved park design for C-Basin.

January 1987 Funds were allocated for acquisition of 10 additional acres at C-Basin.

February 1987 City retained Allan Thode to prepare appraisal on the 10-acre addition.

April 1, 1987 City received appraisal on 10-acre addition.

Early April City retained Jerry Heminger as its acquisition agent.

April 16, 1987 Public Works Director met with Daryl Geweke and Jeff Werner who were negotiating to purchase the remaining Kettelman property between the C-Basin and Kettleman Lane. After reviewing the adopted C-Basin park plan with them, they wanted to know the problems involved in increasing the depth of the remaining Beckman Road parcel to approximately 500 feet. The PWD indicated that, in addition to having to redo the whole plan, it appeared there would be insufficient clearance for the model airplane runway. The PWD indicated he would check with Mr. Bigler to confirm whether this modification was possible.

April 17, 1987 Public Works Director contacted Jeff Werner and indicated that the park designer felt that the additional setback would eliminate the model airplane concept. Mr. Werner indicated that they had contacted their architect, Arlie Preszler (avid model airplane enthusiast), and also found that the clearance provided was needed for flying model airplanes safely. The PWD indicated that based on the Council's desire to provide for model airplanes, he saw no way to provide this additional setback.

April 27, 1987 Agent met with Mr. and Mrs. Kettelman and made offer per appraisal (\$20,000/acre). Kettelmans indicated they had an existing offer of approximately \$26,000/acre. Agent requested copy of offer.

May 15, 1987 Agent met with Kettelmans. Asked for signed copy of offer. Kettelmans indicated it would take approximately two weeks for signatures.

June 3, 1987 Agent spoke with Mr. Kettelman by phone asking for status of signed offer.

July 2, 1987 Agent met with Kettelmans. They were to receive signed offer July 6.

July 14, 1987 Agent met with Kettelmans and obtained signed offer. Agent also indicated to Kettelmans that City may also be in a position to also purchase 2-acre parcel between Beckman Road and 10-acre parcel being negotiated. This would square off Kettelman's remaining parcel.

July 15, 1987 Agent met with City to transmit signed offer and to help prepare letter to Allan Thode.

July 16, 1987 City mailed letter to Allan Thode requesting confirmation that 200-foot depth is reasonable for commercial or industrial uses and requesting review of his appraisal price now that Kettelman had a signed offer of \$26,260/acre.

July 21, 1987 Allan Thode talked to the City's agent relative to adjustment of appraisal.

July 29, 1987 City received letter from Thode indicating 200-foot depth was reasonable for development and that \$26,260/acre was acceptable to him based on the signed offer. Thode also felt City should be flexible in squaring off parcel if that was the desire of the seller.

August 7, 1987 City Attorney received letter from Geweke's attorney requesting City revise their C-Basin plan to provide 450-foot depth on remaining Beckman Road frontage parcel.

August 27, 1987 City Manager, City Attorney, Public Works Director, and City's acquisition agent met with Kettelman's attorney, Bob Elliott, and made verbal offer to buy additional land to square off parcel. Mr. Elliott indicated that he felt the City was being more than fair to give the Kettelmans a choice of Option A (our original 10-acre acquisition) or Option B (12 acres squaring off total parcel).

September 2, 1987 City sent letter to Kettelman's attorney, Bob Elliott, formalizing City's offer to buy either 10 acres at \$262,500 or 12 acres at \$315,000. City has \$450,000 budgeted.

October 5, 1987 City Council received letter from Geweke's attorney requesting hearing before the Council. Hearing set for November 4, 1987.

October 14, 1987 City Council to set hearing to determine public interest and necessity for November 4, the first step in eminent domain proceedings.

October 16, 1987 City sent letter to Kettelmans and their attorney notifying them of the November 4 public hearing, together with a copy of letter of September 2.

CITY COUNCIL

EVELYN M. OLSON, Mayor
JOHN R. (Randy) SNIDER
Mayor Pro Tempore
DAVID M. HINCHAMAN
JAMES W. PINKERTON, Jr.
FRED M. REID

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
CALL BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 334-5634

TELECOPIER (209) 333-6795

THOMAS A. PETERSON
City Manager
ALICE M. REIMCHE
City Clerk
RONALD M. STEIN
City Attorney

October 27, 1987

Mr. Gerald A. Sperry
Attorney at Law
Freeman and Brown
1818 Grand Canal Boulevard
Stockton, CA 95207

RE: Proposed Resolution of Necessity Park Basin "C"

Dear Mr. Sperry:

Please be advised that the following items pertaining to Park Basin "C" will appear on the agenda for the regular Council meeting of November 4, 1987:

1. Public Hearing to consider the adoption of a Resolution of Necessity for the acquisition of additional land for the "C" Basin, southeast corner of Vine Street and Beckman Road, by Eminent Domain procedures.
2. Consider request of Daryl Geweke for discussion and resolution, concerns relating to Park Basin "C" acquisition.

The meeting will commence at 7:30 p.m. and will be held in the Council Chambers, 2nd floor, 221 West Pine Street, Lodi.

Should you have any questions, please do not hesitate to call this office.

Very truly yours,

Alice M. Reimche
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City Clerk

AMR:jj

offices of
FREEMAN & BROWN

Professional Corporation

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James Richard Brown
Judy A. Lovett
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Gerald A. Sperry
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ALICE M. REINCHIE
CITY CLERK
CITY OF LODI

October 26, 1987

The Honorable Mayor Evelyn Olson
The Honorable City Councilmembers
City of Lodi
City Hall
Lodi, CA 95240

Re: Council Meeting - November 4, 1987
Proposed Resolution of Necessity
Park Basin "C"

Dear Mayor and Councilmembers:

On October 5, 1987, this office initiated correspondence to you regarding our representation of Mr. Daryle Geweke, the purchaser under a land sales contract of certain real property adjacent to the City of Lodi belonging to Orrin D. Kettleman. Our letter outlined our interest and that of Mr. Geweke to work with the City of Lodi and attempt to accomodate the city's proposed expansion, by the acquisition of an additional 10 acres of real property, of Park Basin "C". Our letter further requested this matter be scheduled for a study session of the full council as soon as mutually convenient.

On October 16, 1987, Assistant City Engineer, G. E. Robinson, initiated correspondence to Orrin D. and Gertrude M. Kettleman notifying them of the city's intent to adopt on November 4, 1987, a resolution of necessity authorizing and directing the acquisition of 10 acres of Mr. Geweke's property by eminent domain. In view of our letter of October 5, 1987, the notification by Mr. Robinson would appear to be unnecessary and premature. We again request the council schedule this matter for discussion at a study session and further request the continuance of the consideration of the proposed resolution of necessity until sometime after that study session.

In the event this matter cannot be resolved by way of an equitable compromise which will minimize the adverse impacts of the proposed Park Basin "C" on Mr. Geweke's interest, this letter constitutes formal request by Mr. Geweke, the real party in

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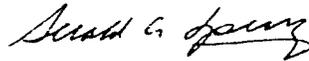
Reno Nevada Office
147 East Liberty Street
Reno, Nevada 89501
702 322 0666

FREEMAN & BROWN

The Honorable Mayor Evelyn Olson
The Honorable City Councilmembers
October 26, 1987
Page 2

interest, or his representative, to be heard on November 4, 1987,
on the issue of the adoption of the resolution of necessity.

Sincerely,



GERALD A. SPERRY

GAS:vg

cc: City Manager
City Attorney
City Clerk
Robert Elliott
Daryle Geweke

Law offices of
FREEMAN & BROWN

Professional Corporation

Maxwell M. Freeman
James Belford Brown
Judy A. Lovett
Erik R. Anderson
Gerald A. Sperry
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OCT 27 '87

City Attorney's Office

October 26, 1987

The Honorable Mayor Evelyn Olson
The Honorable City Councilmembers
City of Lodi
City Hall
Lodi, CA 95240

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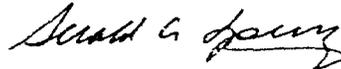
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Law Office
FREEMAN & BROWN

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Sincerely,



GERALD A. SPERRY

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cc: City Manager
City Attorney
City Clerk
Robert Elliott
Daryle Geweke