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CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, APRIL 3, 1996
7:00 P.M.

1. ROLL CALL

Present: Council Members - Davenport, Mann, Pennino, Sieglock and Warner (Mayor)

Absent: Council Members - None

Also Present: City Manager Flynn, Public Works Director Ronsko, Community Development Director Bartlam, Community Center Director Lange, Librarian Andrade, Police Chief Hansen, Parks and Recreation Director Williamson, Finance Director McAthie, City Attorney Hays and City Clerk Perrin

2. INVOCATION

The invocation was given by Pastor Norm Mowery, First United Methodist Church.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Warner.

4. AWARDS / PROCLAMATIONS / PRESENTATIONS

a) Mayor Warner presented a proclamation to Melissa Brandt, Amy Henning and Andrew Vincent with the Tokay High School Students Encouraging Environmental Development (SEED) Club proclaiming April 13, 1996 as "Earth Day Celebration". The event will include art and essay contests on environmental issues. Last year's event, which was held on April 22, 1995 at Lodi Lake, was a success. This year they would like the event to be much bigger.
FILE NO. CC-37

b) Police Chief Hansen and Police Volunteer Supervisor Biskup presented the 7th graduating class of the Lodi Police Partners Program. Two years into the program, class 7 brings the total number of Police Partners to 97. The next class is scheduled for some time in 1997. In 1995 the program logged in 22,000 hours of volunteer time which equates to 11 full-time positions and a savings to the City of approximately \$270,000. The City of Lodi Partners Program was recently awarded the Helen Putnam Award, and many cities are duplicating Lodi's Program. Council observed a moment of silence for Police Partner graduate (7th class) David Fisher who passed away Friday at age 51.
FILE NO. CC-152

5. PUBLIC COMMENTS ON CONSENT CALENDAR

a) Lou Fugazi, 925 Greenwood Drive, Lodi, commented on agenda item #E-3 regarding rejection and rebid of proposals for Lodi Lake Park concessions. Mr. Fugazi questioned why the proposals were being rejected. It was explained that, because two of the three bids were non-responsive, the proposal may not have been clear enough, and in fairness the project should be rebid. The concern was expressed, however, that rejecting the bids would spoil the chance for a fair bid, because the prices were known.
FILE NO. CC-12(b), CC-12.1(c) AND CC-300

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6. ACTION ON CONSENT CALENDAR ITEM #E-3

- a) The City Council, on motion of Council Member Mann, Davenport second, rejected staff's recommendation and instead adopted Resolution No. 96-25 awarding the proposal for concession operations at Lodi Lake Park and other locations to Bone Cuisine A La Carte in the amount of 16% to the City by the following vote:

Ayes: Council Members - Davenport, Mann, Pennino and Warner (Mayor)

Noes: Council Members - Sieglock

Absent: Council Members - None

FILE NO. CC-12(b), CC-12.1(c) AND CC-300

7. CONSENT CALENDAR

In accordance with report and recommendation of the City Manager, Council, on motion of Council Member Pennino, Mann second, approved the following items hereinafter set forth **except those otherwise noted which were moved to the end of the agenda** by the vote shown below:

Ayes: Council Members - Mann, Pennino, Sieglock and Warner (Mayor)

Noes: Council Members - Davenport

Absent: Council Members - None

- a) Claims were approved in the amount of \$1,937,092.09.
FILE NO. CC-21(a)
- b) Agenda item #E-2 entitled, "Minutes - March 20, 1996 (Regular Meeting)" was removed from the Consent Calendar and discussed and acted upon at the end of the agenda. (Removed by Council Member Davenport.)
- c) Agenda item #E-3 entitled, "Rejecting proposals, approve revised Request for Proposals, and authorize staff to resolicit proposals for concession operations at Lodi Lake Park and other locations" was acted upon prior to approval of the Consent Calendar.
- d) Agenda item #E-4 entitled, "Authorize purchase of exhaust system for Equipment Maintenance Shop" was removed from the Consent Calendar and discussed and acted upon at the end of the agenda. (Removed by Council Member Davenport.)
- e) Agenda item #E-5 entitled, "Authorize purchase of mini blinds for City Hall" was removed from the Consent Calendar and discussed and acted upon at the end of the agenda. (Removed by Council Member Davenport.)
- f) Agenda item #E-6 entitled, "Authorize agreement for right-of-way acquisition at 201 South Hutchins Street" was removed from the Consent Calendar and discussed and acted upon at the end of the agenda. (Removed by Council Member Davenport.)
- g) Agenda item #E-7 entitled, "Accept improvements under Lodi Lake Nature Trail contract" was removed from the Consent Calendar and discussed and acted upon at the end of the agenda. (Removed by Council Member Davenport.)
- h) Agenda item #E-8 entitled, "Approve Traffic Resolution amendment - Elm Street (north side) west of Ham Lane, commercial-vehicle parking restriction" was removed from the Consent Calendar and discussed and acted upon at the end of the agenda. (Removed by Council Member Davenport.)

- i) Agenda item #E-9 entitled, "Approve Traffic Resolution amendment - Garfield Street at Eden Street, installation of multi-way stop control" was removed from the Consent Calendar and discussed and acted upon at the end of the agenda. (Removed by Council Member Davenport.)
- j) Adopted Resolution No. 96-30 declaring weeds a public nuisance, initiated abatement proceedings on various parcels throughout the City and setting the matter for public hearing for May 1, 1996.
FILE NO. CC-24(b) AND CC-300
- k) Agenda item #E-11 entitled, "Approve renewal of contract with 3M Media National Advertising Company for City-leased advertising billboards" was removed from the Consent Calendar and discussed and acted upon at the end of the agenda. (Removed by Council Member Davenport.)
- l) Agenda item #E-12 entitled, "Designate San Joaquin County Council of Governments (COG) as the implementing entity for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan" was pulled from the agenda pursuant to staff's request.
- m) Agenda item #E-13 entitled, "Request that City join amicus brief for Souza v. City of Antioch, a Court of Appeals case relating to qualified immunity for Police Officer's in hostage situations" was removed from the Consent Calendar and discussed and acted upon at the end of the agenda. (Removed by Council Member Davenport.)

8. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Warner called for the continued Public Hearing to consider appeal received from Mullen, Sullivan & Newton on behalf of Richard Galantine regarding mitigation fees and for the applicability of the dedication and off-site improvement sections of the Lodi Municipal Code.

Hearing Opened to the Public

1. Stephen C. Snider, representing Richard Galantine, 1111 West Tokay Street, Lodi, thanked the City for working with them on this matter and resolving a portion of the issue (the off-site improvement and right-of-way dedication section). In regards to the safety hazard issue on Cherokee Lane, Mr. Galantine will prepare an approved drawing to install a berm in the area. Mr. Galantine will go through the approval process for the driveway location along Cherokee Lane. The matter that remains unresolved is the mitigation fees. In fairness he asks that the City Council reduce or waive the fees based on the circumstances; and
2. Richard Galantine, 901 South Cherokee Lane, Lodi, explained that his only contention is that he went into the Public Works office to show exactly what he was planning to do and to get the appropriate encroachment permits. He was originally told it would cost him \$12,000 based on his original discussion with staff. Mr. Galantine asked that the City make a fair decision and uphold what he was told by the City.

Public Works Director Ronsko pointed out that staff had, based on Mr. Snider's concern of the mitigation fees, already reduced the mitigation fees from \$19,782.30 to \$9,432.90. He also pointed out that the \$12,000 was based on Mr. Galantine paving a much smaller area which was to be used only to store RVs.

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Public Portion of Hearing Closed

ACTION:

The City Council, on motion of Council Member Mann, Pennino second, denied the subject appeal and approved the following staff recommendations by the vote shown below:

Ayes: Council Members - Mann, Pennino, Sieglock and Warner (Mayor)
Noes: Council Members - Davenport
Absent: Council Members - None

1. ***Cherokee Lane and Vine Street improvements and right-of-way dedications.*** Eliminate requirements for right-of-way dedication and off-site improvements on Cherokee Lane and Vine Street;
2. ***Safety hazard created by unpermitted paving in Cherokee Lane.*** Owner to provide plans prepared by licensed civil engineer to remediate safety hazard. Licensed contractor to do work under terms of encroachment permit issued by Public Works Department;
3. ***Approval of new driveway locations along Cherokee Lane.*** Owner to submit plans to Public Works Department showing new driveway location and request Council approval of location.
4. ***Development Impact Mitigation Fees.*** Owner to pay Development Impact Mitigation fees for establishment of retail commercial operation on previously bare ground.
5. ***Water service upgrade and meter fees.*** Owner to pay water service upgrade and water meter installation fees in conformance with Lodi Municipal Code Chapter §13.08.050 (based on current evidence; however, if facts show that the use of the front building was commercial, this requirement would be rescinded).
FILE NO. CC-6 AND CC-56

9. RECESS

Mayor Warner declared a ten-minute recess and the City Council meeting reconvened at approximately 8:55 p.m.

10. COMMUNICATIONS (CITY CLERK)

a) On recommendation of the City Attorney and/or the City's contract administrator, Insurance Consulting Associates, Inc. (ICA), the City Council, on motion of Council Member Pennino, Sieglock second, unanimously rejected the following claims:

1. Gregory Virga, date of loss 8/5/95;
2. Barbara Koteles, date of loss 11/11/95; and
3. Leo Mansu, date of loss 1/12/96.
FILE NO. CC-4(c)

- b) City Clerk Perrin read the following ABC Licenses:
 - 1. Ladon J. Strapp to Ali M. Ahmad, Don's Dandy Mart, 20 West Turner Road, Lodi, Off-Sale Beer and Wine, Person to Person Transfer; and
 - 2. Angelina Foods to John Anagnos, Angelina's, 1420 West Kettleman Lane Suites L & M, Lodi, On-Sale General Eating Place, Person to Person Transfer. FILE NO. CC-7(f)

- c) The following reports were presented to the City Council:
 - 1. Planning Commission report of March 25, 1996

City Manager Flynn took this opportunity to introduce the newly-appointed Community Development Director Konradt Bartlam. FILE NO. CC-35(c)

11. REGULAR CALENDAR

- a) The City Council heard presentations regarding performance reviews for the Library and the Community Center (Hutchins Street Square). FILE NO. CC-6 AND CC-34

12. ORDINANCES

- a) (Council Member Davenport left the Council table during discussion of this item.)

Ordinance No. 1630 entitled, "An Ordinance of the City Council of the City of Lodi Amending Chapter 3.12 of the Lodi Municipal Code by Adding Thereto Sections 3.12.112 and 3.12.114 Relating to Transient Occupancy Tax Code Provisions" having been introduced at a regular meeting of the Lodi City Council held March 20, 1996 was brought up for passage on motion of Council Member Sieglock, Pennino second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members - Mann, Pennino, Sieglock and Warner (Mayor)
Noes: Council Members - None
Absent: Council Members - Davenport

FILE NO. CC-56, CC-149 AND CC-177

13. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- a) John Johnson, Lodi Sports Foundation, P.O. Box 608, presented the City Council with its new brochure. Mr. Johnson announced its upcoming Hole-In-One contest on April 20, 1996 and its first annual fundraiser at Zupo Field on July 13, 1996. The Lodi Sports Foundation hopes that it will be involved in the decision-making process on the feasibility study of an indoor sports center. Council Member Sieglock, with Council's concurrence, directed staff to research the possibility of selling the name of some of the City's parks and using the money towards the new gym or something like it.

14. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- a) Council Member Davenport thanked everyone for coming to the meeting and commented on the following matters: 1) Reminded everyone to be ever mindful of gangs and know where your kids are. They are important to the future and to this community; 2) Read into the record a letter addressed to City Manager Flynn regarding the undisclosed \$17 million of funds that was reported in The Record on March 11, 1996 (full copy of Mr. Davenport's letter is on file in the City Clerk's office). Mr. Davenport has not yet received any information regarding this matter and would like to know where and when did the fund originate, who ordered the bank account to be opened, who opened the bank account, who signed on the bank account, what transactions have taken place, what was the money used for, itemized statements from the banks involved, how much interest accrued in this account, what was the original amount used to initially open the account, why was the City Council not told about it, where is the \$17 million now, why is it not identified in the City assets, and who has access to this account. Mr. Davenport would also like to know if other Department Heads have unauthorized accounts using taxpayers money, and implied that the Police Chief has an unauthorized bank account at Farmers and Merchants Bank. Further, Council Member Davenport requested that Mayor Warner, another Council Member and himself demand an investigation and identify those parties responsible for mishandling of citizens' money and turn the matter over to the Attorney General. He is appalled to know that the City is indebted to Northern California Power Agency (NCPA) in excess of \$196 million, which was not disclosed to him from prior staff. Mr. Davenport would like a recap of every past and future cost, expense or obligation with NCPA since its involvement with the City of Lodi. Mr. Davenport requested that this matter be placed on the next agenda for Council's vote to turn this matter over to the Attorney General; 3) Wished Linda Nichols a speedy recovery and hopes to see her back at work as soon as possible; 4) Already heard this evening about the Arts Commission and its upcoming calendar; 5) Received information regarding the Criminal Justice Action Update and issues important to the City. The State wants to hit the counties with \$2.2 million to require counties to pay for 50 - 100% of the California Youth Authority (CYA) actual institutional costs which amount to approximately \$31,000 a year that will ultimately pass on to the City. The booking fees at the jail will go over \$1 million in this County, which will reimburse the City of Lodi for fingerprint costs; 6) Commented on the Stockton Record article regarding Shirtsleeve Session on March 26, 1996 regarding the performance review for the Police Department. Mr. Davenport's comments were taken out of context and his fellow Council Members made some unwarranted comments about it. The headline of the article was not what the content of the meeting was; the conversation was "how can we take the money out of drugs to solve some of these problems". During this conversation he talked about the burden of keeping people in jail for drug-related charges, NAFTA shipping drugs into this Country, and the budgets in police departments each year. He asked if there were any alternative solutions to the problem. It is cheaper to educate people on drugs than to keep them in jail. Mr. Davenport does not advocate taking punishment away from drug users if they do crimes under the influence, just as if with alcohol. Mr. Davenport stated that he does not advocate the use of drugs, in fact, he deplors it. Drugs play a major part in the majority of crimes. If money was taken out of drugs, crime would be reduced.
FILE NO. CC-6, CC-21(b) AND CC-51(d)
- b) Council Member Sieglock also commented regarding the \$17 million fund. He spoke with City Manager Flynn regarding the matter and was told the matter will be put on the next agenda to discuss what happened, how to avoid it happening again and to give an opportunity for the Council and the public to ask questions. If the Council feels it should take action, that would be the time to do it. Further, Council Member Sieglock informed the City Council that he recently received information on diverting rinse water that now runs into the sewer system could instead run onto agricultural land. Producer fees will be lower and the City could actually delay expansions of its plant. Council Member Sieglock, with Council concurrence, directed staff to look into this matter.
FILE NO. CC-6, CC-21(b) AND CC-51(d)

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- c) Council Member Mann also commented on the \$17 million fund. It is appropriate that the City investigate and do an internal audit on how this money came to be and what has been expended from the fund. The money, which was invested, has been there and did not just pop up. This is \$17 million that we did not have. With regard to bringing in the Attorney General, if the internal audit shows other monies or expenditures then the City should do a full investigation.
FILE NO. CC-6, CC-21(b) AND CC-51(d)
- d) Council Member Pennino also commented regarding the \$17 million fund. Council will probably find that this money is in a balance account to offset any rate increases that have occurred, which is not out of the norm in the electric business. The City has never tried to hide the debt amount to NCPA; it is in the budget document on pages F-2 through F-5. Further, Council Member Pennino suggested that the City invite Continental Cable to make a presentation at a future meeting regarding its merger with King Videocable and its investments in this community. Council Member Pennino reminded the public that the Lodi-Tokay swim meet held today will be televised on King 3 tomorrow at 4:00 p.m.
FILE NO. CC-6, CC-21(b) AND CC-51(d)
- e) Mayor Warner informed the City Council and the public that Omega Nu will hold its annual fundraiser on April 13, 1996. Last year's proceeds went to the Lodi Police Partners Program, this year it will go to Habitat for Humanity.
- f) Council Member Mann asked Police Chief Hansen if Council Member Davenport's accusation regarding hidden bank accounts at F & M Bank had any merit. Chief Hansen stated that he does not know what Mr. Davenport is talking about. The Police Department has some authorized accounts at F & M Bank and is not aware of any unapproved accounts. Further, Council Member Mann asked if Chief Hansen had a safe in his office with cash to make expenditures. Police Chief Hansen indicated he did not. Council Member Davenport again stated his belief that the Police Chief had opened an account which was unauthorized and he and the City Manager found it about one and a half years ago. City Manager Flynn indicated that he did not find any unauthorized accounts at F & M Bank and that Mr. Davenport is probably speaking of the account that belongs to the Lodi Police Officers Association which is not a City account. Council Member Davenport indicated the account of which he was speaking dealt with asset seizures and once again accused Police Chief Hansen of having a safe in his office.
FILE NO. CC-6, CC-21(b) AND CC-51(d)

15. MOTION TO HEAR REMAINDER OF CONSENT CALENDAR ITEMS

The motion at the beginning of the meeting was to hear the balance of the Consent Calendar items at the end of the agenda; however, there were members of the public in the audience waiting for discussion on these items. Therefore, the City Council, on motion of Council Member Sieglock, Pennino second, unanimously moved the balance of the Consent Calendar to be heard next on the agenda (prior to Closed Session, rather than after).

16. ACTION ON REMAINDER OF CONSENT CALENDAR ITEMS

The City Council, on motion of Council Member Pennino, Warner second, made a motion to approve the remainder of the Consent Calendar items as a whole by the following vote:

- Ayes: Council Members - Mann, Pennino, Sieglock and Warner (Mayor)
- Noes: Council Members - Davenport
- Absent: Council Members - None

However, Council Member Davenport called for **point of order**. The City Attorney ruled that since Council Member Davenport pulled these items for discussion, he should be given the opportunity to make his comments.

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Prior to discussion on the Consent Calendar items, the City Council, on motion of Council Member Pennino, Mann second, limited the discussion on the following items to one minute each by the vote shown below:

Ayes: Council Members - Mann, Pennino, Sieglock and Warner (Mayor)
Noes: Council Members - Davenport
Absent: Council Members - None

- a) The City Council, on motion of Council Member Pennino, Sieglock second, unanimously approved the minutes of March 20, 1996 (Regular Meeting) with a minor spelling correction on page 9.
- b) The City Council, on motion of Council Member Mann, Sieglock second, took the following actions by the vote shown below:

Ayes: Council Members - Mann, Pennino, Sieglock and Warner (Mayor)
Noes: Council Members - Davenport
Absent: Council Members - None

- 1. Adopted Resolution No. 96-26 awarding the purchase for exhaust system for Equipment Maintenance Shop to NeuTech/RM Construction, of Loomis, in the amount of \$13,950.67 and appropriated funds in accordance with staff recommendation; and
- 2. Adopted Resolution No. 96-27 awarding the purchase of mini blinds for City Hall to Harold W. Thompson, Inc. in the amount of \$2,399.68.

FILE NO. CC-12(d) AND CC-300

- c) The City Council, on motion of Council Member Mann, Sieglock second, unanimously authorized the City Manager and City Clerk to execute the right-of-way agreement for 201 South Hutchins Street and appropriated street funds to pay for this acquisition.
FILE NO. CC-90
- d) The City Council, on motion of Council Member Davenport, Sieglock second, unanimously accepted the improvements under the "Lodi Lake Nature Trail" contract and directed the City Engineer to file a Notice of Completion with the County Recorder's office.
FILE NO. CC-90
- e) The City Council, on motion of Council Member Sieglock, Davenport second, unanimously took the following actions:

- 1. Adopted Resolution No. 96-28 amending Traffic Resolution No. 87-163 by approving the restriction of commercial-vehicle parking on the north side of Elm Street between Ham Lane and Pacific Avenue, adjacent to Lakewood Mall; and
- 2. Adopted Resolution No. 96-29 amending Traffic Resolution No. 87-163 by approving the installation of four-way stop controls at the intersection of Garfield Street and Eden Street (with inclusion of language that the matter be reviewed by the City Council after one year).

FILE NO. CC-48(h), CC-48(k) AND CC-300

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- f) The City Council, on motion of Council Member Pennino, Sieglock second, authorized the City Manager to enter into a one-year contract with 3M Media National Advertising Company for advertising on the two billboards on Highway 99 at a monthly rate of \$1,085 per sign and authorized the City Manager to enter into a one-year contract with 3M Media National Advertising Company for an additional sign on Highway 12 east of Victor Road at a monthly rate of \$160 (for which the Lodi-Woodbridge Winegrape Commission will donate prepared art work for signage theme and pick up the monthly cost) by the following vote:

Ayes: Council Members - Mann, Pennino, Sieglock and Warner (Mayor)
 Noes: Council Members - Davenport
 Absent: Council Members - None

FILE NO. CC-90

- g) The City Council, on motion of Council Member Mann, Sieglock second, authorized the City of Lodi to join the amicus brief for Souza v. City of Antioch, a case before the Court of Appeals relating to qualified immunity for Police Officer's in hostage situations by the following vote:

Ayes: Council Members - Mann, Pennino, Sieglock and Warner (Mayor)
 Noes: Council Members - Davenport
 Absent: Council Members - None

FILE NO. CC-4(f)

17. CLOSED SESSION

Mayor Warner adjourned the meeting to a Closed Session to discuss the following matter:

- a) Actual Litigation: Government Code §54956.9(a). One Case. Scheppmann v. City of Lodi et al., San Joaquin County Superior Court No. 281991

18. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

The City Council meeting reconvened and Mayor Warner disclosed the following action:

Actual Litigation: Government Code §54956.9(a). One Case. Scheppmann v. City of Lodi et al., San Joaquin County Superior Court No. 281991

No final action taken in this matter.
 FILE NO. CC-200(d)

19. ADJOURNMENT

There being no further business to come before the City Council, Mayor Warner adjourned the meeting at approximately 11:15 p.m.

ATTEST:

Jennifer M. Perrin
 City Clerk