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CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, APRIL 10, 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, City Engineer Prima, Economic Development Coordinator Goehring, Community Development Director Bartlam, Finance Director McAthie, City Attorney Hays and City Clerk Perrin

2. 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 Public Hearing to consider Central City Revitalization Assessment District.

City Attorney Hays explained that the process for this hearing is to receive protests or withdrawals of protest presented either in writing or verbally. The individual will need to identify the property involved by either the address or the Assessor's Parcel Number (APN) and if he or she is the owner of the property or explain the capacity in which they represent the owner. If he or she represents the owner, he or she must submit the proper authority to act as the owner. City Attorney Hays informed the City Council that the City Clerk has the protests already received in writing. Further, Mr. Tim Hachman, bond counsel, is present to assist with any questions. Mr. Hays explained that after the close of the hearing, the City Council should continue the matter to the next regularly scheduled meeting (April 17, 1996) to allow time for the engineers to review and validate the protests.

Hearing Opened to the Public

1. Roy Collins, 212 East Pine Street, Lodi, spoke representing the Boeshanz and Meidingers. He has already submitted an official protest. This plan will not work as planned, and those outside the core area are being asked to pay for it when they will not benefit;
2. Stephen C. Snider, 1111 West Tokay Street, Lodi, spoke representing various property owners. Mr. Snider did not have a protest to file; however, had several questions to ask City Council and staff (Mr. Snider was reminded that the purpose of this meeting was to file protests against the proposed assessment district);
3. Sunil Yadav, hotel owner on Cherokee Lane, Lodi, suggested that the City reach some kind of a compromise on the plan for less of an assessment against the property owners. Cherokee Lane does need some improvements, especially lighting;

At this point, discussion followed regarding the purpose of this hearing. It was explained again that the public was here to file protests and/or withdrawals of protest against the proposed assessment district. However, it was not the time to discuss modification(s) of the plan. The appropriate time to hear testimony of that sort would be at the meeting of April 17, 1996.

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Council Member Davenport stated for the record that he contests this prior restraint on speech. The City set this matter for hearing over a month ago so that the public would have an opportunity to discuss this. However, no one set this day for only protests. Mr. Davenport expressed his belief that the public should be able to ask questions.

City Attorney Hays explained that this process is structured according to the Streets & Highway Code, which is the action that the Council acted under when it accepted the Engineer's Report. This is the time and place set for hearing protests.

4. Don Shilling, 15800 North Free Road, Lodi, questioned whether or not this was a protest hearing;
5. Curt Kelly, 12 South Hutchins Street, Lodi, questioned the integrity of this meeting. The agenda for the meeting of April 10, 1996 states that it is a public hearing to consider Central City Revitalization Assessment District. Did the City change the playing field? Mr. Kelly asked why the City, which has an arch remaining from the old days, needs another arch and why his property was being zoned differently and one too many times. Mr. Kelly officially protested the assessment district. His APN is 037-28-028 (he is also being assessed for APN 037-28-029 which he does not own).

Council Member Davenport questioned if all of the property owners received the language from the code in their notices and if they all received a copy of the Engineer's Report. City Attorney Hays responded that the notice addresses the code and the Engineer's Report is filed for public review.

Tim Hachman read from the notice that at the public hearing the City Council will hear all testimony and protests in relation to the proposed assessment district. Then the Council will determine whether the public interest and convenience require the improvements and assessments, take final action on the Engineer's Report in the assessment and whether the owners of a majority of the area of the property in the assessment district have protested against the proposed improvements, the extent of the assessment district or the proposed assessment (which is the action the City Council will take on April 17, 1996).

6. Gary Brandt, 314 West Lockeford Street, Lodi, explained that he did not file a protest because he wanted to hear the testimony this evening and get some questions answered. However, if he does not get a chance to hear testimony, he will file a protest. Don't ram this down everyone's throat;

Mayor Warner explained that the public had many meetings to discuss this matter and that the next meeting (April 17, 1996) was the appropriate time to hear questions. Following discussion, it was mutually agreed upon that all testimony would be given this evening, and the purpose for the April 17, 1996 meeting was to take the vote only, not to hear testimony. Therefore, Mayor Warner called upon those who previously spoke to present their entire comments, which they were unable to do before.

7. Roy Collins, commented that he was amazed at the proceedings, and it seems that this process was intentionally vague from the beginning. It is really frustrating dealing with the City. He was told a lot of things that have not come to fruition, and he feels this is being rammed down their throats. Mr. Collins is not opposed because of the money, but because the project is doomed to fail. It does not act upon the problems that exist downtown, it is simply a beautification project. If the City were really concerned with what is happening there, it would fully fund the east side lighting project. The public will be back here in five years with the same problems, and the City will do the same thing all over again. A lot of people are angry and this is a waste of taxpayers dollars;

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8. Stephen Snider, stated that there are many unanswered questions. These property owners are small merchants, employers, consumers who buy in Lodi, voters, and hard working people. These are the types of businesses concerned about keeping the doors open day after day. There are approximately 124 parcels being counted. If this vote were taken per capita (instead of by properties) 82% would be in opposition. Mr. Snider recognizes what the City wants to accomplish with this, but some of these people will go out of business. These property owners have valid concerns like the median strips. Median strips will seriously impact the customers having access to businesses, emergency vehicles having access and loss of business during the construction process. Who will be responsible for the maintenance. The property owners are skeptical with the previous experiences with the downtown beautification, and they do not feel that someone else should be experimenting with their businesses. The deck is stacked, because the vote will be very close, and the outcome depends on what method the City uses to count certain properties. This process is set up so that those who want to protest have to take the action. Anyone sitting at home is casting their vote for the district. The fliers and the publicity are all pro-revitalization. Those in opposition do not have this publicity. Some of the properties have a zero assessment and should not be counted in the district, because they have no stake in the matter. Mr. Snider has a concern about the Seventh Day Adventist Church (which has a huge parcel and high square footage in the district) which has been offered the deferral agreement. Does the City initially pay the assessment? Staff indicated that the City does pay up front; however, if the property was sold and converted into commercial, the assessment would immediately go into affect. Mr. Snider again indicated that this huge parcel has nothing at stake financially, yet it alone is enough to swing the vote. Further, the people who protested the district were approached by City staff with a form already made up to withdraw their protest, yet those who protested had to write a letter. A lot of the property owners are in favor of improvements and street lighting, but not the median;
9. Sunil Yadev, complained that the City still has not taken care of the pot hole in front of his property; therefore, how will it maintain the improvements in this plan. The median is not a good idea. The semi-trucks can hardly turn around there now; how will they make it out of there with the median? Mr. Yadev indicated that whether or not this plan passes, he will gather the property owners to get lighting in this area. Council Member Pennino stated to Mr. Yadev that he believes the pot hole he spoke of is on his property and suggested he verify that;
10. Ginger Kelly, 12 South Hutchins Street, Lodi, explained that four years ago she attempted to convert her two story house into an office downstairs, but was turned down by the Planning Commission because there was no parking. Her property is zoned residential; however, the other properties around her are all commercial. Who made the lines and why should they be included. City Manager Flynn explained that if her property is residential, she is eligible to apply for a deferral, and would not be assessed, unless she sold the property and it was converted to commercial;
11. Gary Brandt, commented on the fliers for revitalization, which indicate that if anyone had questions they could call. However, the only people to call were those in favor of the project. There was not one person to call who opposed the district. That is just one more way of stacking the deck. If there is a close vote, please reconsider the vote;

12. Mark Ehlers, 217 North Sacramento Street, Lodi, questioned what is happening with the 23 City-owned downtown parcels. It is not fair or equitable for staff to disappear with the numbers and decide whether or not to include the City property. Mr. Ehlers requested that the City decide this evening so all involved will know. Mr. Ehlers questioned the City Manager about the follow up letter he said he would do correcting the error from staff which said those eligible for deferment agreements who oppose the district would lose their deferral. City Manager Flynn met with staff and it was determined that only three or four people were given this incorrect information. Staff's position is that if a property owner protested the assessment district, but otherwise would be eligible for a deferral, the owner would not be penalized and would still be eligible for a deferral. These three or four people were called and given the correct information. Mr. Ehlers continued by asking Council to lay all of the cards on the table, letting everyone know where the City stands and what the rules are;
13. Paul Easley, 218 North School Street, Lodi, expressed his belief that this issue is being pushed by certain individuals who will not be assessed or even benefit directly. The City can not go to someone three blocks away who can not afford it so that 20 - 30 property owners can benefit by having their property improved at the others' expense. When the assessment letters came out, most people did not understand that by not protesting they would become an automatic yes. The people who get the benefit from this should pay for their entire share. Mr. Easley urged the City Council to reconsider this matter and put it on the ballot;
14. Alice Burt, 210 North Stockton Street, Lodi, indicated that it upsets her that this money is being channeled to downtown when it is desperately needed on the east side. The east side needs help for the graffiti, garbage in the alleys, drugs, crime, slum lords and bad buildings. Her kids can't go out at night because of the gangs, bums and transients. This project will not fix up her property and she will not benefit from it. Put the money into areas that really need it. Downtown will never be the same again, because the City allowed small businesses to disappear due to the big box stores. The deferment being offered only means that she won't pay now, but she will pay later;
15. Barbara McWilliams, Posers TV and Radio, 208 South School Street, Lodi, indicated that the purpose of this plan is to try to stop the decline and decay of Lodi's downtown. What we are doing downtown is not the end, it is the start. If we don't get on the bandwagon now, it will be gone. She will benefit, but she also gives a lot to this community to pay for that support. There is the possibility of business loss during construction, but there are ways to get around it if you have a program in place and work with the City. Let's move the process forward;
16. Tony Segale, Chair of both the Downtown and Cherokee Lane Task Forces, 204 North Sacramento Street, Lodi, expressed that all of these questions tonight have been answered at the many meetings held on this matter towards the creation of this plan. Some of us are tenants and we want to be affected positively. It will benefit the whole community. This is not a City-driven project -- it is a community-driven project. We have had several meetings, newspaper surveys and brochures. This plan contains business recruitment and retention, sign ordinance regulations, street improvements, kiosks, etc. There are more pieces to this puzzle than people realize, and it has been made known from the beginning. The City of Lodi is paying 65% of this project, and he is glad to see this money being used in his own community to increase the property values;

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17. Tim Hachman explained to the City Council that when the protest hearing is closed no more protests or withdrawals of protest can be received. The protest time is over. Further, the City Council will continue this matter to the meeting of April 17, 1996 for final decision. The protest hearing will not be reopened then; therefore, if anyone is going to protest, it should be done now;
18. Mark Ehlers again asked why the City properties were zeroed out and not included in the information, but showed up later in the downtown assessment district. The City needs to rule on this tonight;
19. Rose Marie Mendonca, 1 North Cherokee Lane, Lodi, has worked on the Cherokee Lane committee since she owned property there. People have stated this evening that if this doesn't go through they will do it themselves -- it won't work! They have tried to in the past and it has never worked. In regards to the City's 65% share, where will that money go if it is not used for the project? This is an opportunity to get this money to make improvements in this area. If not used here, this money will be used somewhere else, but we won't get a lesser tax bill. This is a chance to finally get something done in the area. People also talked about improving the east side area -- we got lights in that area and everyone was happy, but no one argued that the City (citizens) paid for it;

City Engineer Prima provided an explanation on why the City property was included. When the boundaries were originally established it was understood that the concept plan had a few things that needed correction. There was an error on the Cherokee Lane square footage, the boundaries for the commercially and residentially zoned properties needed some correction and there was the issue with paying off the old bonds in the old district. The concept plan talked about \$3.05 million and \$2.8 million split 50/50. When the City first did the boundaries of the district, it calculated all of the costs in the district and what the property owners assessment would be (the City was not included). The costs came out to \$1.90 per square foot in the core downtown area and \$0.37 per square foot in the remainder of the downtown, which were higher than those shown in the concept plan. Therefore, staff looked at it again and capped the amount in the various areas and included the City to take up a chunk of the costs. Then the issue of deferral properties was discussed and Council authorized action on the parcels that had the mixture of both residential and commercial uses. The point was to get the costs down for the property owners which was done by adding the City's square footage.

20. Tim Vallem, 121 South School Street, Lodi, questioned why the City arbitrarily changed the districts from the time the assessment district was formed in January. Mr. Vallem spoke at that meeting trying to understand the lines and was told then that the City properties were exempt. City Manager Flynn explained that the lines have never changed. There may be some City properties on the edge that at the time were questionable on whether or not it should be included. City Engineer Prima indicated that the City property has always been in the district and the boundaries have not changed. The zig zag lines separate the core area from the outside area. Tim Hachman explained that the City Council on February 21, 1996 preliminarily adopted the Engineer's Report. At that time the City was included in the assessment district and assessed. The preliminary approval started the legal calendar of the assessment district and set forth the public meeting on March 6, 1996 and the public hearing on April 10, 1996. Mr. Hachman is unsure of Mr. Vallem's reference to January; however, anything done in January was preliminary because it was not finalized until February 21, 1996.
21. Don Shilling, -15800 North Free Road, Lodi, stated that \$8 million (for the total project) is a lot of money and wanted clarification on the City properties being assessed;

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- 22. Virginia Lahr, 311 East Elm Street, Lodi, indicated that if the downtown area continues to decay, so does the east side and Cherokee Lane. The improvements will benefit the east side. Ms. Lahr attended all of the meetings. It was hard, but she made an effort, and she hopes the project goes through;
- 23. John Gerlack, 101 North Loma Drive, Lodi, requested clarification on how the railroad property protested. City Engineer Prima indicated that a letter from the railroad came to him personally. There was a question on the validity of the protest, and he faxed a copy of the letter to Mr. Hachman. The matter has still not been resolved; however, Mr. Prima turned the letter over to the City Clerk prior to this meeting. Mr. Gerlack continued by asking, if the protest is valid, how much square footage would it count for. Staff figured it could account for approximately 200,000 square feet. Mr. Gerlack requested that he be allowed to go over the figures with staff to compare against what he has. Further, Mr. Gerlack would like to see the City Council make a decision tonight about the City's square footage.

Public Portion of Hearing Closed

ACTION:

Staff, along with the Engineers, will tabulate the figures and come back at the meeting of April 17, 1996. Therefore, the City Council, on motion of Mayor Warner, Pennino second, unanimously continued action on this matter to the meeting of April 17, 1996.  
FILE NO. CC-6, CC-72 AND CC-400

3. RECESS

Mayor Warner called for a ten-minute recess and the City Council meeting reconvened at approximately 9:30 p.m.

4. REGULAR CALENDAR

- a) Agenda item #C-1 entitled, "Hire administrator to administer assessment districts" was pulled from the agenda pursuant to staff's request.
- b) (Council Member Pennino had a conflict of interest in the following matter and, therefore, abstained from discussion and voting on this matter.)

The City Council, on motion of Council Member Mann, Sieglock second, authorized the City Manager to submit grant applications to the San Joaquin Valley Air Pollution Control District for the purchase of an electric bus (approximately \$150,000) and a Compressed Natural Gas (CNG) fueling station (approximately \$40,000) by the following vote:

Ayes: Council Members - Davenport, Mann, Sieglock and Warner (Mayor)  
Noes: Council Members - None  
Absent: Council Members - None  
Abstain: Council Members - Pennino  
FILE NO. CC-50(a)

5. ADJOURNMENT

There being no further business to come before the City Council, Mayor Warner adjourned the meeting at approximately 9:35 p.m.

ATTEST:

Jennifer M. Perrin  
City Clerk