

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, JUNE 18, 2002**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of June 18, 2002 was called to order by Mayor Pennino at 7:03 a.m.

Present: Council Members – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. REGULAR CALENDAR

B-1 “Adopt resolution regarding amended SB 1717”

Deputy City Manager Keeter reported that the State Assembly Local Government Committee hearing will be conducted tomorrow to consider amendments to SB 1717. Senator Machado first introduced the legislation on February 21. On April 3 the Council adopted Resolution No. 2002-74 opposing SB 1717. Senator Machado amended the bill on April 16. The bill was approved as amended at the April 24 Committee hearing. On April 30 the bill was amended prior to the full Senate hearing. When the bill emerged from the Senate floor it did not contain language which would allow for power generation or plants, nor did it clarify what is permissible under the term “recreation ancillary uses”.

Ms. Keeter referenced a document distributed to Council this morning entitled “Senator Machado’s Proposed Amendments” (filed) and explained that it had been received by staff yesterday afternoon and will be brought before the Committee tomorrow. In addition she noted that Council received amendments as proposed by the League of California Cities (filed). Ms. Keeter stated that the most current version of the bill by Senator Machado addresses the issue of recreation ancillary uses.

City Manager Flynn stated that staff is concerned with terms “lodging house,” “ancillary use,” and whether the word “commercial” includes agriculture.

Council Member Land believed that SB 1717 is targeted to the ProStyle Sports Complex proposal and asked the following questions:

- What is the difference between a power plant and a commercial operation?
- What is considered “recreational purposes”?
- Would the City continue to be allowed to lease land for agricultural use?
- Does the bill address county property inside the city limits?

Senator Machado explained that the intent of the bill is to prevent premature conversion of farmland into commercial development. He stated that proposals had been made in this county and elsewhere in the Valley to lease noncontiguous lands for commercial purposes. This could promote leapfrog development between noncontiguous lands and the borders of the city and appeared to be an attempt to bypass local land use decisions that should be made in a county venue. Senator Machado stated that there is a different attitude that would come from a county planning position versus a city, with respect to using noncontiguous land surrounded by agriculture. It is important to carefully consider fiscalization of land use where local agencies make decisions on revenues, rather than the considerations of the use of the land and surrounding area, as well as the unintended impacts that might result from uses that would be non-compatible. Senator Machado stated that SB 1717 is a statewide policy and is not directed at any municipality or county. In answer to Council Member Land’s inquiry, he confirmed that “electrical sub generation” is not intended to impede the sales of electricity to outside interest. Further, he stated that those who have property under the Williamson Act, should not have to pay penalties or exit fees when the property is annexed by a city. Under the bill, if land is used for purposes not intended by the legislature, the property would revert back to the venue of the original jurisdiction for its land use.

In reply to questions posed by Mayor Pennino, Senator Machado stated that the bill would not allow for dorms, although he indicated that he would take it into consideration as an exemption. The retroactive date of April 24 was used to deter potential attempts to take action on property prior to the implementation date of the bill. Senator Machado stated that it had never been his intent to preclude electric generation.

Council Member Howard pointed out that if a proposal went before the county they could rule to convert agricultural land into commercial use.

Senator Machado acknowledged that possibility, but explained that when the voice of the people is represented by the county, matters affecting that area should be heard by that body.

In response to questions by Council Member Land, Senator Machado stated that Santa Rosa is an example of a city that has made proposals to lease noncontiguous property for commercial development outside the intent of statute. Legislation that allowed cities to do noncontiguous annexation was based on the fact that there were activities necessary to support cities that were not appropriate in and around the neighborhoods of the cities, e.g. wastewater treatment plants and airports. He stated that the bill would not affect agricultural leases.

In answer to Mayor Pro Tempore Hitchcock, City Attorney Hays explained that there can be property within a city that is owned by the county, and privately held non-annexed property within a city. In either case, the city would have no land use control.

Mayor Pro Tempore Hitchcock asked Senator Machado if he had any objections to Section F on the League of California Cities proposed amendment. In addition she asked if SB 1717 could be amended so that it equally restricts county development inside the city limits.

Senator Machado replied that he would be open to considering Section F. In reference to county development inside the city, he explained that SB 1717 relates to a specific application of code that deals with noncontiguous annexations by cities. He suggested that if the Council wanted to make a proposal for separate legislation restricting county development inside city limits, it would be taken under consideration.

City Manager Flynn emphasized that the ProStyle Sports Complex is not a City project, it is being proposed by a private developer. The California Youth Soccer Association chose the property due to development costs, drainage, and close proximity to the highway. Lodi has invested significantly in promoting and marketing the winegrape industry. Lodi also believes that sports are an important part of the desired economic mix of the community. Mr. Flynn commented that when Lodi adopted the 2% growth limit, Woodbridge blossomed. Currently there is a huge commercial development and potential new city at Interstate 5 and Highway 12, over which Lodi has no control. He believed that there should be more discussion related to planning of land in cities and counties and how the two work together. As an example, he stated that the City of Oroville with a population of 10,000 must absorb the impacts of 50,000 people in its surrounding county area. Mr. Flynn also mentioned that 307 homes were recently approved in Lockeford, intimating that these county residents will place a burden on services in Lodi.

Mayor Pennino asked Community Development Director Bartlam if he would recommend supporting the bill if the League of California Cities proposed amendments were used. Mr. Bartlam answered in the affirmative and noted that Senator Machado has previously had an opportunity to consider language regarding commercial development.

Mr. Flynn stated that it is staff's position to oppose SB 1717.

Mayor Pennino outlined the following options for Council:

1. Continue opposition
2. Oppose unless amended
3. Support
4. Support with amendments
5. Take a neutral position

PUBLIC COMMENTS:

- Mike Hakeem stated that he has been representing ProStyle Sports Complex for a number of months relative to the environmental document processing in coordination with City staff. In addition, he has attended hearings related to SB 1717. He believed that the commercial element was a significant focus of SB 1717 and suggested for that reason that this element, i.e. the hotel and retail provisions, be removed from the Sports Complex project. He read the following statement from a letter sent to staff approximately two weeks ago: "SB 1717 as submitted by Senator Machado would significantly interfere with the commercial element of our proposed Sports Complex. Consequently we have modified our project description to exclude or eliminate the commercial portion of the project description in order to be consistent with the proposed new legislation."

Mr. Hakeem reported that he had spoken to Senator Machado this morning just before he left the meeting. He had asked the Senator if he was aware of the Sports Complex modification and if, in his opinion, it would be in compliance without the commercial element. Senator Machado indicated that he was aware of the modification, and believed that it would not be excluded by the legislation. Colin Grinnell then joined the conversation and was witness to the same discussion. Senator Machado indicated to Mr. Grinnell that a certain element of dormitory provision would not be inconsistent with the sports stadium, park, and soccer fields.

Mr. Hakeem recommended that due to the legislation's lack of specificity, the Council maintain its position in opposition and direct staff to participate in tomorrow's Assembly Committee hearing to determine the direction that this matter might proceed.

- Jerald Kirsten stated that he is a minor investor in Flag City and noted that the proposal of ProStyle Sports is in direct competition with plans for Flag City, e.g. hotels, motels, and a Recreation Vehicle Park. He stated that from a personal standpoint it would be to his advantage if ProStyle Sports gave up its plans for the commercial development, but as a citizen of Lodi, he hoped that they would not do so. Mr. Kirsten stated that some of the farmers in the area feel that ProStyle Sports is an encroachment of farm property. He pointed out that it is second class land fit only for growth of crops suitable for animal consumption. He reported that Mr. Parfrey of the Sierra Club voiced his objections to the ProStyle Sports project at a Council meeting and vowed that he would take legal action to prevent the complex from being developed. Mr. Kirsten stated that Senator Machado introduced SB 1717 directly after Mr. Parfrey's threat and he believed that it was directed specifically at the City of Lodi and the ProStyle Sports Complex project. He alleged that Senator Machado is taking advantage of the cloak of authority and political power of the Sierra Club. Mr. Kirsten stated that the Council should be proactive and object in every possible way to the proscriptions placed upon the City in the use of its own land.
- Bob Askloff, representing the California Youth Soccer Association, urged Council to continue its opposition, as he believed there were too many unclear words in the proposed amendments.
- Joe Cotta stated that he farms property at the intersection of Interstate 5 and Highway 12. He urged Council to support SB 1717 and noted that many people perceive the ProStyle Sports Complex as an abuse of the land.

- Brad Lange disagreed with the portrayal of this matter being State versus City. He pointed out that county residents vote for and are represented by the County Board of Supervisors. Even though the City may own property in the County, it still has a responsibility to stay true to its original purpose for the land when the property was annexed. He recommended that Council support SB 1717 and reiterated that county decisions need to be made at the Board of Supervisors level.

Council Member Nakanishi stated that he supports: 1) private property rights, 2) less use of eminent domain, and 3) local control. As a Council Member he believed that the issue of local control supercedes, and for that reason he would oppose SB 1717.

Mr. Lange maintained that local control is not an issue at stake because the area in question would be controlled by the County of San Joaquin. He acknowledged the City's dilemma in that it would be giving up land. Due to White Slough and the need for a location to put effluent, the City would then have to annex more land to replace what it intends to use for development. He noted that winegrape growers are very concerned about how the entrance of Lodi will look. The growers do not want Flag City to mushroom into a city within a city.

- Leon Zimmerman stated that SB 1717 is a hastily drawn legislation and urged Council to continue its opposition to the bill.

Mayor Pennino summarized concerns and recommendations voiced thus far:

- Continue to work with the League of California Cities on the language;
- There is still a strong sense of opposing the bill at this time;
- Further consider item D on page 2, i.e. for "non municipal purposes";
- Define lodging and other uses.

- Colin Grinnell addressed Council and introduced himself as staff for Senator Machado. He reported that the League of California Cities proposed amendments were received last night and they have not yet had an opportunity to analyze them. The amended bill that would be in print today was in response to information presented by the City of Lodi and League of California Cities during previous meetings. He stated that added language now addresses golf pro shops, food vending, snack bars, electric generation, and other leases allowed under law that would not be jeopardized by SB 1717. He stated that they would clarify the dormitory issue.

Council Member Nakanishi maintained that Council should oppose the bill.

Council Member Howard commented that such unnecessary outside governing of the City of Lodi and its citizens is disturbing and precedent setting. She suggested that during the presentation tomorrow, the City take the stance of flat opposition and allow the League of California Cities to make its proposal for amendments.

Council Member Land voiced strong opposition to SB 1717.

Mayor Pro Tempore Hitchcock agreed that Council should continue to oppose the bill, although she felt that there should be some indication that changes would be considered; however, they would need to be reviewed in advance of taking a position on them.

Mayor Pennino recommended that Council continue its opposition and direct staff to work with the Senator's Office and the League of California Cities on points addressed this morning.

MOTION / VOTE:

The City Council took no action on this matter.

NOTE: Mayor Pro Tempore Hitchcock left the meeting at 9:05 a.m.

B-2 "Authorize the City Manager to approve sales of dirt from DeBenedetti Park/G-Basin"

City Manager Flynn explained that this item is to request authorization for the City Manager to approve sales of dirt, which is anticipated to reduce the cost of the DeBenedetti Park project.

In reply to Council Member Howard, Mr. Flynn confirmed that interested parties will come to him to discuss cost and time frames, which he will consider in selecting applicants. Mr. Flynn reported that market value and the amount of dirt applicants are willing to buy will be taken into consideration. He stated that updates will be provided to Council.

Council Member Land reminded Mr. Flynn that the topsoil should not be sold.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, authorized the City Manager to approve excavation and sales of dirt from DeBenedetti Park/G-Basin in order to expedite site development and save costs, and execute applicable documents. The motion carried by the following vote:

Ayes: Council Members – Howard, Land, Nakanishi, and Mayor Pennino
Noes: Council Members – None
Absent: Council Members – Hitchcock

C. CLOSED SESSION

The City Council, on motion of Mayor Pennino, Land second, continued the following Closed Session matters to the Regular City Council / Closed Session meeting of June 19, 2002. The motion carried by the vote shown below:

Ayes: Council Members – Howard, Land, Nakanishi, and Mayor Pennino
Noes: Council Members – None
Absent: Council Members – Hitchcock

C-1 Prospective acquisition of real property located at 402 East Sargent Road, Lodi, California (APN 027-040-03); the negotiating parties are City of Lodi and Noble D. Fore, II and Millard L. Fore, Jr., Trustees of the Beckman Family Trust; Government Code §54956.8 (CA)

C-2 Prospective acquisition of real property located at 541 East Locust Street, Lodi, California (APN 043-202-14); the negotiating parties are City of Lodi and Pete and Helen Perlegos; Government Code §54956.8

D. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION – N/A

E. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

F. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:07 a.m. to the Regular City Council / Closed Session meeting of June 19, 2002 at 6:00 p.m.

ATTEST:

Susan J. Blackston
City Clerk