**Council Chambers** 

California

300 First Street Woodland,

April 1, 1997

The Woodland City Council met in special session at 6:00 p.m. in the second floor conference room of City Hall in order to convene a closed session. Before the closed session the City Manager announced that the purpose of the closed session was to hold a conference with the City's Labor Negotiator (Sec. 54957). The City Manager represented the City as the Negotiator, and there was discussion regarding the following employee organizations: Woodland Mid-Management Association, Woodland Professional Police Employees' Association, and Woodland Professional Firefighters' Association. Council Members present at the meeting were: Borchard, Losoya, Ryhal. Council Members absent: Flory, Rominger. City Manager Kris Kristensen and Assistant City Manager Phil Marler also attended the closed session.

The special session and closed session were adjourned at 6:50 p.m.

The Woodland City Council met in regular session at 7:20 p.m. in the City Hall Council Chambers.

### PLEDGE OF ALLEGIANCE:

Vice Mayor Losoya opened the meeting and invited everyone present to join him in the pledge of allegiance to the Flag of the United States of America.

### **ROLL CALL:**

COUNCIL MEMBERS PRESENT: Borchard, Losoya, Ryhal

COUNCIL MEMBERS ABSENT: Flory, Rominger

STAFF PRESENT: Kristensen, Siprelle, Brown, Ostebo, Lansburgh, Barry, Winnop, Wegener, Bryan, Martin, Marler, Gualco, Rice, Coble

### CITY MANAGER ANNOUNCEMENT:

City Manager Kris Kristensen announced that the City Council just completed a closed session for a conference with the City's labor negotiator. He said no Council action was taken.

#### MINUTES:

On motion of Council Member Borchard, seconded by Council Member Ryhal and carried by unanimous vote, the City Council approved the minutes for the adjourned Council meeting of January 28, 1997, regular Council meeting of February 4, 1997, and adjourned meeting of February 25, 1997, as prepared.

#### **COMMUNICATIONS:**

- 1. From the State Department of Alcoholic Beverage Control a copy of an application was received for a person to person transfer for Quik Stop Market, 10 Kentucky Avenue. Community Services Officer Leilani Vierra had advised that the Police Department has no comment on this application.
- 2. From the State Department of Alcoholic Beverage Control (ABC) a copy of an application was received for an off sale general (premise to premise transfer) license for Romey's Liquor Store, 3 Purity Plaza. Leilani Vierra advised that the Police Department will be forwarding conditions to ABC, and the Police Department's concerns will be handled with the conditional use permit process.
- 3. From Pacific Gas and Electric Company a notice was received advising of its application filed with the California Public Utilities Commission to decrease natural gas rates beginning January 1, 1998.
- 4. From Pacific Bell a notice was received advising of its application filed with the California Public Utilities Commission to lower prices for local toll calls, increase the discount customers can receive when using a calling plan and decrease the prices charged long-distance companies to connect to Pacific Bell.
- 5. From City Treasurer Ann Hanson a memo was received transmitting a report on investment activities for February 1997.
- 6. From Woodland Youth Services a letter was received requesting that the City reevaluate its current criteria for Community Development Block Grant (CDBG) funding to remove the limit of no more than two years in a row and no more than three years in a five-year cycle for emergency food and shelter providers. This matter will be discussed when the Council holds a public hearing on April 15 on the 1997 Action Plan for use of CDBG funds.
- 7. From Giannina Santangelo, Superintendent of the Woodland Joint Unified School District, a letter was received transmitting a report on growth and

future school facility needs. She discussed the upcoming need to construct a new high school and requested that the City provide a timely specific plan process to ensure that the new high school can be occupied when it becomes necessary.

### **COMMITTEE REPORTS:**

- 1. From Library Services Director Marie Bryan a report was received transmitting the minutes of the Library Board meetings of February 3 and February 24, 1997.
- 2. From City Manager Kris Kristensen a report was received transmitting the minutes of the Yolo County Transit Authority Board meeting of February 26, 1997.
- 3. From Director of Public Works Gary Wegener a report was received transmitting the minutes of the Tree Commission meeting of March 10, 1997.
- 4. From Parks, Recreation and Community Services Director Tim Barry a report was received summarizing action taken at the Commission on Aging meeting of March 11, 1997.
- 5. From Community Development Director Janet Ruggiero a report was received summarizing action taken at the Historical Preservation Commission meeting of March 12, 1997.
- 6. From Human Resources Manager Dean Gualco a report was received transmitting the minutes of the Personnel Board meeting of March 13, 1997.
- 7. From the Parks, Recreation and Community Services Director a report was received summarizing action taken at the Parks, Recreation and Community Services Commission meeting of March 19, 1997.
- 8. From the Community Development Director a report was received summarizing action taken at the Planning Commission meeting of March 20, 1997, as follows:
- a. Director Janet Ruggiero reported on the East Street Specific Plan joint meeting with the City Council, and Commissioners Ybarra and Thompson reported on their attendance at the League of California Cities Planners Institute held in Monterey on March 12 through March 14, 1997.
  - b. Director Ruggiero discussed the upcoming agendas and the

likelihood that the April 3, 1997 meeting would be used for further training. There was a recommendation by the Director that a bus tour be set up in conjunction with the May 1st meeting so that the Commission could become more familiar with activity going on throughout the community.

- c. The Planning Commission agreed to continue discussion on the Downtown Office Park study for the area bounded by Main Street on the north, Pendegast Street on the south, 5th Street on the west and East Street on the east, so that additional information concerning traffic impacts can be gathered by staff.
- d. Planner Robert MacNicholl discussed the history, purpose and future plans for murals and art in public places with the Commission. A brief slide show was also provided. Members of the murals committee also spoke to the topic and offered their perspectives on the benefits to the community which result.
- e. City Attorney Ann Siprelle presented information to the Commission concerning issues of conflict of interest and findings for land use decision making.

### **PUBLIC COMMENT:**

Acting Fire Chief Dave Ostebo said one year ago the City Council allocated \$8,000 from a Public Employees' Retirement System (PERS) surplus to the Fire Department to help start a defibrillation program. He said for various reasons this project has not gotten off the ground at this point. Recently the Woodland Professional Firefighters' Association voted unanimously to remove this item from negotiations and wanted to proceed ahead to get the program implemented as rapidly as possible. He said the goal is to save lives. The success rate for CPR using defibrillation units jumps from 3 percent to about 18 percent. He said this is a very important life saving issue for the Fire Department. He said the Fire Department will be actively pursuing donations to help offset the approximately \$24,000 that will be needed to purchase the four units that are needed. He said he will come back and inform the Council on the progress made in raising the money. He said those interested in donating can make the donations to the Woodland Fire Department at 532 Court Street, Woodland.

Management Analyst Sherri Martin described for the Council the new audio visual equipment in the Council Chambers.

### PROCLAMATION - NATIONAL LIBRARY WEEK:

Library Services Director Marie Bryan briefed the Council on activities for

National Library Week.

On motion of Council Member Borchard, seconded by Council Member Ryhal and carried by unanimous vote, the City Council proclaimed April 13 - April 19, 1997, as National Library Week.

Vice Mayor Losoya presented the proclamation to Marie Bryan.

#### PROCLAMATION - MONTH OF THE YOUNG CHILD:

Dan Rice, Recreation Program Manager, outlined the activities planned for the Month of the Young Child.

On motion of Council Member Borchard, seconded by Council Member Ryhal and carried by unanimous vote, the City Council proclaimed April 1997 as the Month of the Young Child and proclaimed April 5, 1997 as Family Fun Day.

Vice Mayor Losoya presented the proclamation to Betty Flynn from St. John's Preschool and Child Care Center.

COMMUNITY CARE CAR AND PARKS, RECREATION AND COMMUNITY SERVICE DEPARTMENT AWARDS:

The Parks, Recreation and Community Services Director reported that Community Care Car of Woodland has been awarded the first place award in the Community Partnerships category by the California Parks and Recreation Society (CPRS) Aging Section. This statewide award was presented at an awards luncheon at the Hyatt Regency Hotel in Sacramento as part of the 1997 CPRS Conference. He then gave a background report on the Community Care Car program.

Gail Humphrey acknowledged the work of those who make the program successful.

The Parks, Recreation and Community Services Director said the CPRS also bestowed its prestigious Agency Showcase Award - Marketing Division (population 50,000 and under) at its annual Awards and Installation Banquet on March 15, 1997 for the Department's Camp Packer Creek program brochure. He said Rinda Miller, the City's Aquatics Supervisor, and Dan Rice, Recreation Program Director, should be congratulated for earning the award for producing and marketing the program.

INVESTIGATION INTO PEART ALLEGATIONS:

The City Manager said on December 12, 1996 Neal Peart resigned his position on the City's East Street Corridor Specific Plan Committee. In doing so he made statements alleging serious staff involvement and alleging that he was being personally attacked by staff in the course of their duties. He said staff took that issue very seriously and wanted to have a professional, independent assessment of that issue conducted. On January 7 Council authorized the City Manager to find and retain legal counsel to help in that regard. Following discussions with a number of different firms and with Mr. Peart, he selected the firm of Hyde, Miller and Owen of Sacramento to do the work. Nancy Miller of that firm has been conducting this project since February and is prepared to present the report and the findings of that matter. He the clear purpose of this agenda item is to hear the results of her report, and he encouraged the Council to ask questions about the investigation and the process.

Nancy Miller of Hyde, Miller and Owen said her firm had never done any work for the City of Woodland before but most of her firm's work is public agency work. She said the project commenced on February 14, 1997 when she interviewed Mr. Peart regarding a number of concerns and allegations that he had regarding the historic inventory process and dealings that he had with the planning staff regarding property that he owned at 414 Fourth Street, the old Pepsi building, and his property at 1225 East Oak Avenue which is in the East Street Corridor. She said Mr. Peart served on the East Street Corridor Committee until December of 1996 when he resigned making some allegations. She said it is not unusual to have conflict in the historic resource inventory process because typically there are conflicting goals of preservation of historic resources butting against the laudable goal of economic redevelopment and economic development of a community. Many times property owners are not pleased with the historic resource inventory process as it relates to their ability to improve their property, so it is not unusual to have conflict between property owners and staff regarding this process. She said she and her staff interviewed 26 people. She said she was struck by the number of people who had a good relationship with City staff even though there may be problems with the process. She said her report dealt with the issues Mr. Peart raised in the context of the comments that other people had given her which provided a broad picture of the problems with the historic resource inventory process and then the specific answers to Mr. Peart's concerns. She said Mr. Peart was concerned that there was a personal vendetta against him by planning staff and she took a statement from Mr. Peart, and Mr. Peart provided her with numerous documents which are attached to her report. She concluded that there was no personal vendetta of the staff against Mr. Peart although she felt there were problems with the historic resource inventory process. The process has taken a very long time, and certain items in the local criteria have not been fully clarified so that reasonable people disagree over what she called marginal property, property that can be classified by a reasonable person as being something that is applicable and should be listed and yet

another consultant can come in and say that the property does not come into the local criteria and it should not be listed. She said the City had a study done in 1995 where some of these issues were looked at by another consultant, and she felt that report was very good and many of those recommendations made have not been fully implemented. If those recommendations were implemented, she said the City would go a long way in resolving some of the problems. She said she did not find in the process personal interference by the staff directed solely against Mr. Peart. She said she did find that there was some confusion between staff and consultants, and particularly with the most recent consultant who is looking at the East Street Corridor properties, JRP Historic Consulting. She said when the consultant made a determination on those properties that staff disagreed with, rather than putting that disagreement into the final report, no mention was made in the final report that there had been a disagreement, and in fact the consultant had changed his mind. She said her opinion in that situation is to tell the committee or Council that there is disagreement on some of the more marginal properties, and that allows the decision makers to more fully understand the process and allows them to make a better decision about whether or not certain properties should be listed. She said that was a legitimate concern which Mr. Peart had and should be addressed.

After Ms. Miller responded to questions from Council Neal Peart thanked the Council and the City Manager for the investigative work conducted by Nancy Miller. He said he does not agree with Ms. Miller on some points and agrees with her findings in other areas. He said he would like to volunteer to help with the Historic Resources Inventory process.

After Council discussion the City Manager said there will be a joint meeting of the City Council and the Historical Preservation Commission scheduled for Tuesday, April 24, 1997, and one of the key focuses of the meeting is the currently adopted criteria used for listing properties as historic.

On motion of Council Member Borchard, seconded by Council Member Ryhal and carried by unanimous vote, the City Council received the Hyde, Miller & Owen report on the investigation into the complaint by Neal Peart regarding City staff's historic preservation actions relative to his properties.

### HEARING - CONDITIONAL USE PERMIT FOR PSYCHIC READINGS BUSINESS:

Vice Mayor Losoya said that this time was set to consider the appeal of Planning Commission's denial of a conditional use permit for a psychic readings business at 422B Main Street.

Senior Planner Colleen McDuffee reported that on February 20, 1997 the Planning Commission considered a conditional use permit request from Cathy

Paula Merino to operate a psychic readings business at 422B Main Street. This site is located in the Central Business District (CBD) Zone. Psychic readings business are allowed in the CBD Zone, subject to first obtaining a conditional use permit. She said staff recommended that the Planning Commission approve the conditional use permit for Ms. Merino's business. However, the Planning Commission denied Ms. Merino's request because they felt such a use would not be in accordance with the General Plan in respect of maintaining a historic downtown. Subsequent to the Planning Commission decision an appeal was filed by Mr. Barry Fisher, an attorney representing Ms. Merino. In the appeal, Mr. Fisher states that:

- 1. No appropriate basis exists to deny the conditional use permit.
- 2. The proposed use conforms to the requirements and the intent of the Zoning Ordinance and the General Plan.
- 3. As applied to the proposed use, the section of the Zoning Ordinance requiring a conditional use permit for this type of use, as well as the conditional use permit ordinance, violates the free speech, free exercise of religion, due process, and equal protection provisions of the United States and California Constitution and the Religious Freedom Restoration Act.

Ms. McDuffee said staff is recommending that the Council overturn the Planning Commission's decision. The City Attorney has advised staff of her concern with the Planning Commission's decision, particularly the lack of sufficient findings and evidence to support their denial. Because of this, staff recommended that the City Council overturn the Planning Commission decision. She said that she spoke with the applicant today and due to an illness in her family she was not able to attend this hearing. She said the Council could be asked to continue the matter, but the applicant said she would like the Council to consider her request at this time and was hopeful the Council would approve her request. Also, she said a letter was received today from Mr. Bryan Hardwick who is opposed to the conditional use permit, and the Council Members received a copy of the letter.

City Attorney Ann Siprelle said she spoke today with Mr. Fisher, the attorney representing the applicant, and he explained that the applicant has an illness in the family and is in San Francisco at a hospital. She said they wanted to ask the Council to consider the matter based on the written appeal already submitted. She said she does not agree with everything in Mr. Fisher's letter, but she said fortunetelling is an activity that is protected by the First Amendment. The California Supreme Court has stated this, and that is the reason for her concern that the factual findings of the Planning Commission are not sufficient to support its decision. She said the applicant would prefer that the matter be heard at this time, but the Council could postpone the matter to a

later date.

Vice Mayor Losoya opened the public hearing.

The following persons offered comments: Belinda Wieszczyk, Dave Thompson, Vincent P. D'Amico, Jr., Melanie Madden, and Ray Northern.

After the City Attorney responded to comments from Ms. Wieszczyk Vice Mayor Losoya closed the public hearing.

After Council discussion the following action was taken:

On motion of Council Member Borchard, seconded by Council Member Ryhal and carried by unanimous vote, the City Council reversed the Planning Commission's denial of a conditional use permit for Cathy Paula Merino for a psychic readings business at 422B Main Street, Woodland; and the City Council

- 1. Certified that the NDEIR is complete and adequate, that the project is not expected to generate any significant adverse environmental impacts, that no further environmental assessment is required, and that the project will not have an impact on fish and wildlife resources and therefore a finding of "de minimis" was made for this project.
- 2. Approved the conditional use permit for a psychic readings business at 422 B Main Street with the following findings and conditions of approval:

Findings:

The environmental assessment for this project has been completed, an NDEIR has been certified, and no further environmental review is required.

The project is consistent with the General Plan designation of Central Commercial.

The project is consistent with the Zoning Ordinance in that fortunetelling businesses are allowed as a conditional use in the CBD Zone.

Conditions of approval:

The applicant shall:

Community Development Department

1. Secure approval and satisfy requirements of all agencies of

# jurisdiction.

- 2. Obtain a building permit for any sign prior to its installation.
- 3. Persons under the age of 18 shall not be allowed in the establishment unless accompanied by an adult.

Fire Department

- 4. Post an address sign as per C.F.C. Article 9.
- 5. Provide an extinguisher as per C.F.C. Standard 10-1.

Police Department

6. Comply with Section 15.30 of the City of Woodland Municipal Code.

City Attorney

7. The applicant shall hold harmless the City, its Council Members, officers, agents, employees, and representatives from liability for any award, damages, costs, and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.

#### REPORTS OF THE CITY MANAGER:

### CONSENT CALENDAR:

On motion of Council Member Borchard, seconded by Council Member Ryhal and carried by unanimous vote, the City Council approved the following Consent Calendar items:

# PERSONNEL BOARD REPORT ON BOARD/COMMISSION RECRUITMENT:

The City Council received the Personnel Board's 1996 Annual Report on City board, commission and committee recruitment.

### COMPLETION OF CEMETERY FENCING PROJECT:

The City Council accepted as complete Project No. 42-96-97, (wrought iron) Fencing for the Woodland Cemetery, by Arrow Fence Company;

directed the City Clerk to file a notice of completion; and authorized the Vice Mayor and City Manager to execute the notice of completion.

#### SUPPORT FOR AB 1296 RE SKATEBOARDING CLAIM IMMUNITY:

The City Council authorized letters to be sent in support of AB 1296 (Morrow), legislation to make skateboarding a hazardous recreational activity under Government Code Section 831.7.

# **REGULAR CALENDAR:**

### IMPLEMENTATION OF TELECARE PROGRAM FOR ELDERLY:

Maryjayne Coble, Program Manager for the Senior Multi-Purpose Center, explained the proposed TELECARE Program for the elderly.

Police Lieutenant Rich Lansburgh was present at the meeting to respond to questions from the Council.

On motion of Council Member Borchard, seconded by Council Member Ryhal and carried by unanimous vote, the City Council approved the implementation of the TELECARE Computer Generated Reassurance Program in Woodland.

#### CITY FLAG:

Michael Contreras and Eric Sharp from the City of Woodland Flag Committee briefed the Council on the process used to select and recommend a design for a City flag. They explained the different elements of Design No. 1 which the Committee recommended for approval to the City Council.

After some discussion the Council took the following action:

On motion of Council Member Borchard, seconded by Council Member Ryhal and carried by unanimous vote, the City Council received the report of the City Flag Committee and selected City Flag Design No. 1, containing a large green oak tree, red star, red stripe, with the 1861 date and the word Woodland imprinted on it.

#### WOODLAND GYMNASTICS LOAN:

On motion of Council Member Ryhal, seconded by Council Member Borchard and carried by unanimous vote, the City Council approved in concept a \$12,500 interest free loan to Woodland Gymnastics contingent upon City Council approval of a loan agreement.

### GENERAL PLAN IMPLEMENTATION:

The Community Development Director reported to Council on the General Plan implementation process used in other communities and requested that Council take certain actions to commence with implementation.

On motion of Council Member Ryhal, seconded by Council Member Borchard and carried by unanimous vote, the City Council authorized staff to prepare the Specific Plan Ordinance and Specific Plan Procedures and Preparation Guide; to negotiate contracts for the preparation of Community Design Guidelines and the Parks and Recreation Facilities Master Plan, to hire contract employees to assist in the day-to-day operations of the Community Development Department and the Parks, Recreation and Community Services Department, and to commit to the completion of these reports and others identified within a six month time frame if funds are provided for the preparation of the plans and added staff assistance. Council requested that staff keep the City Council informed on a monthly basis on the progress of these activities relative to the six month time schedule.

On motion of Council Member Borchard, seconded by Council Member Ryhal and carried by unanimous vote, the City Council extended the meeting from 10:35 p.m. until 11:00 p.m.

# PUBLIC EMPLOYEES' RETIREMENT SYSTEM CONTRACT AMENDMENT:

On motion of Council Member Borchard, seconded by Council Member Ryhal and carried by unanimous vote, the City Council adopted Resolution No. 3982, Resolution of Intention to provide 2% at 55 Full formula for local miscellaneous members; authorized the City Clerk to sign Compliance with Section 7507 and Certification of Governing Body's action; and introduced Ordinance No. 1293, An Ordinance of the City Council of the City of Woodland Authorizing an Amendment to the Contract between the City Council of the City of Woodland and the Board of Administration of the California Public Employees' Retirement System.

#### DRAFT SOCCER MASTER PLAN:

Parks, Recreation and Community Services Director Tim Barry briefed the Council on the process and individuals involved to develop a soccer master plan. He discussed the plans for establishment of two to three soccer fields at the Yolo County Fairgrounds turfed parking area off Gum Avenue.

On motion of Council Member Ryhal, seconded by Council Member Borchard and carried by unanimous vote, the City Council considered the draft soccer master plan.

The City Manager said staff will take that motion as instruction to start work towards implementation and work on that issue and come back to Council with a request for implementation action. He said this action should not be an indication of an abandonment of the Storz Pond. He said he still feels that is a vital facility for public use, and we need to resolve what is the best way to deal with that. Periodic inundation of that facility for storm drainage is something we have to deal with but no one should forget that Storz Pond is a facility we need to make plans for.

Parks, Recreation and Community Services Commission Member Skip Davies outlined for the Council the process to be used for the Fairgrounds project. He said the Commission intends to ask the Fair Board if it would consider the concept. If the Board approves and the Council concurs, an agreement will be developed.

#### **DUBACH PARK PUMPING COSTS:**

Parks, Recreation and Community Services Director Tim Barry gave Council a report on the cost of de-watering (pumping water from) the Dubach Softball Complex.

On motion of Council Member Ryhal, seconded by Council Member Borchard and carried by unanimous vote, the City Council allocated \$13,847 to cover unplanned de-watering costs through the beginning of May 1997.

### MUNICIPAL SERVICE CENTER ROOF REPAIR PROJECT:

Council was advised that the bid call for the Municipal Service Center (MSC) roof repair project has been pulled from the agenda.

# 1996 REPORT ON WASTE REDUCTION PROGRAM:

The City Council postponed receiving the 1996 report on waste reduction program

#### FIRE CHIEF RECRUITMENT:

The City Manager briefed the Council on the progress in filling the position of Fire Chief.

On motion of Council Member Ryhal, seconded by Council Member Borchard and carried by unanimous vote, the City Council authorized the retention of Shannon Davis and Associates for Fire Chief recruitment services.

### CAPITOL TO CAPITOL TRIP:

Council discussed issues to be considered at the Capitol to Capitol Trip which Council Members Ryhal and Flory will be attending April 5-9, 1997 to Washington, D.C. Council Members expressed desires to express their support for the I-5/State Route 113 project. Council Member Ryhal said that he has been assigned to the flood control topic and Council Member Flory has been assigned to the air quality committee. He said Terry Bassett from the Transit Authority will be attending the transportation issue meetings. He said their meetings are scheduled by topic.

#### ADJOURNMENT:

At 11:05 p.m. the meeting was adjourned.

Jean Winnop, City Clerk

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