

COUNCIL COMMITTEE MINUTES

Concurrent Special Committee Meetings of the Sacramento City Council, Redevelopment Agency of the City of Sacramento, Housing Authority of the City of Sacramento and the Parking Authority of the City of Sacramento.

COMMITTEE NAME: LAW AND LEGISLATION

MEETING DATE: February 16, 1992

MEETING TIME: 1:00 p.m.

LOCATION: 915 I STREET, 2ND FLOOR, COUNCIL CHAMBER

I HEREBY CALL Special Meetings of the Sacramento City Council, Redevelopment Agency of the City of Sacramento, Housing Authority of the City of Sacramento, and Parking Authority of the City of Sacramento to be conducted concurrently with the Council committee meetings listed below, which are incorporated herein by reference. The Special Meetings are called to permit Members who are not on the listed committees to attend the meetings and participate in the discussions. In the event five (5) or more members of the City Council are present at a Committee meeting, only those items listed on the agenda can be acted on or discussed.

The meeting was called to order at 1:10 p.m. by Chair Heather Fargo.

PRESENT: Fargo, Pannell, * Pane

Committeemember Pannell arrived at 1:20 p.m.

1. **Legislative update from Ken Emanuels, the City's Legislative Advocate.**

Recommendation of Staff: File

MINUTES:

Ken Emanuels, the City's Legislative Advocate, was present to discuss the status of the State Budget. He stated that hearings should begin some time in March. It was suggested that he, members of this Committee, and staff meet for one-on-one discussions with our legislators. Mr. Emanuels noted that the current property tax reallocation proposal might lower the local share of property taxes to 7-8%. Developers who depend upon local governing bodies' appetites for property tax revenues do not like this, for it reduces local incentives to approve development. He suggested that the City could meet with groups of legislators together with several other cities to achieve significant impact. He then said that activity on bills right now is quiet, as they don't have to be introduced until March 1st. He asked that the City prioritize pending legislation to determine where his time should be spent.

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2. A resolution requesting that the Assembly Natural Resources Committee and Assembly and Senate representatives support the passage of Assembly Bill 75 (Hauser) which requires City representation on Air District governing boards.

Recommendation of Staff: Support and forward to Council.

Committee Action: Refer to staff for further review.

MINUTES:

Gary Ziegenfuss, Associate Planner, brought this resolution before the Committee. He stated that AB 75 (Hauser) is a reintroduction of a bill from last year, and that the Council previously endorsed this bill. He said this bill will give the City one-third representation. This is an attempt by the League of California Cities and other people in the State to have City Council people directly involved in the development of air quality regulations. He said there is no official opposition at present, but in the past the County Board of Supervisors and the Sierra Club opposed. Chair Fargo asked why the County Board of Supervisors opposed this bill. Mr. Ziegenfuss stated that, as worded, the bill does not commit cities to share in additional costs of Air District operations in the event the board were to be enlarged to include City representation; they wanted the City to contribute to the costs.

*Committeemember Pannell arrived at 1:20 p.m.

Mr. Ziegenfuss went on to say that the County also felt the current District structure is adequate. Committeemember Pane asked where the funds come from now for the Air District. Mr. Ziegenfuss said it comes from car registration fees, and that staff feels the County wants its own membership to develop air quality regulations. Pane commented that if the Board gets its money from the registration of cars, we have a lot of cars in the City that register, so wouldn't that be an offset? Committeemember Pane asked Ken Emanuels whether the City rebutted the County's argument last year relating to the costs they wanted the City to contribute. Mr. Emanuels said he didn't lobby the bill last year because there was no opposition until the bill was suddenly defeated on the last day. (It was defeated because San Diego made it a local issue between the City of San Diego and the County.) Pane said it isn't clear to him about the one-third representation, because Sacramento can't be equal to Galt or Folsom. There was some discussion. Mr. Ziegenfuss said STA consists of 11 members - five county, five city, and one at large (from the unincorporated area). He said if the bill is passed and no agreement is reached on specific Board membership, the default result is five supervisors and two City representatives.

Pane said he feels staff should go back to the Legislature, because Sacramento shouldn't have the same representation as Galt or Folsom. There was some discussion. Pane wants the Legislature to give the City one-third of the vote. He said it seems more logical to have the STA be the Air District and the funding source for transportation initiatives.

No action was taken at this time.

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3. An ordinance amending Article I of Chapter 45 of the Sacramento City Code, relating to trees.

Recommendation of Staff: Support and forward to Council.

Committee Action: Amend and bring back to Committee.

Voting Record: Moved: Pane
Seconded: Pannell
Ayes: Pane, Pannell, Fargo

MINUTES:

Ken Harris, Parks and Recreation Manager, brought this ordinance to the Committee. He said this ordinance is being revised relating to tree maintenance. He explained these recommendations were developed in cooperation with the City's consultant, City staff, and the citizen's advisory committee. He listed the four areas included in this ordinance: (1) definitions, which have been elaborated and expanded, relating to City street trees, maintenance easement private street trees, public trees, and private trees; (2) the heritage trees, including a greater number of species; (3) registration of tree trimmers that are or will be working on street trees; and (4) clarification of the maintenance responsibilities for those trees. He introduced the Superintendent of the City's Tree Section, Martin Fitch. He also handed out copies of diagrams and pictures to each Committeemember for his or her particular district.

Mr. Fitch discussed the definitions of City street trees, maintenance easement of trees, and private trees, as defined in the proposed ordinance. There was considerable discussion. Committeemember Pannell asked whether there is still an ordinance that says the City will plant a tree for you if you don't have one in your yard and if you want to have one, as he is concerned about the liability issues for the trees provided to owners by the City. Deputy City Attorney Diane Balter said the City's liability is only when injuries occur because of a dangerous condition on public property that the City knows about, or has reason to know about. In a private front yard, if there is an injury, there is no liability. Pannell expanded his question to ask that if the City planted the tree in someone's private yard, does the City have no liability? Deputy City Attorney Balter said the City would have no liability. Mr. Fitch clarified that the City only plants trees upon request and does not force a property owner to accept a tree.

Chair Fargo brought up the issue of treating neighborhoods differently. She said the downtown area benefits if only City street trees are maintained by the City, but other districts do not. She said she wants to be fair to all neighborhoods. Mr. Fitch explained that in the past the City did not have the funding for all tree maintenance, and the City has a greater responsibility for City street trees.

Mr. Fitch then described the heritage tree portion of the ordinance, and explained that some trees will be classified as heritage trees and protected at a 36" circumference rather than the previous 100". Pane talked about a redwood tree, probably 100 years old, which was cut down by a homeowner. Mr. Fitch

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stated that any tree with a 100-inch circumference would be considered a heritage tree. Pane stated that in the case of the cut-down tree, the roots were going under the house. Mr. Fitch said if there is potential structural damage, this could be considered an acceptable reason for removing a heritage tree.

Mr. Fitch continued discussing the elements of the proposed ordinance. He said the new ordinance protects maintenance easement private street trees (front yard trees) as well as the City street trees. He said that if the City does not have some restrictions and guidelines about how maintenance easement private street trees will be maintained, we will end up being a city of butchered and improperly maintained street trees. He also discussed registration of persons maintaining street trees, to be sure the people providing this service are qualified and the trees will be well maintained. Mr. Fitch said that any individual or business trimming street trees would have to be registered, to avoid improper tree trimming. He said a private owner would need to have a permit to work on his own maintenance easement private street tree, but an owner could get one without cost. At this time, public testimony was heard.

Robert Tate, homeowner and Municipal Director of the Osgood Tree Expert Company, said he has seen this type of ordinance before, and expressed his concern about giving a homeowner the right to trim trees on his or her own volition. He said other cities have tried this, and it seemed to be working in the short run, but in the long run the trees were severely compromised. He said most homeowners don't know when trees need to be trimmed until it is beyond help. Also, this ordinance may create "tree police" by city staff, which defeats the purpose of this ordinance. If you have a private company do the tree trimming, one street or neighborhood at a time, this could provide a cost savings to each individual homeowner, and it would avoid trees being trimmed at different times, in different and/or incorrect ways. He suggested the City go with caution on this ordinance, and said that if homeowners are to be responsible for the trees on their property, they need to be directed on how to do the job properly. There was some discussion. Mr. Tate concluded by saying that he would never support an ordinance whereby the citizens of the City were given the right to trim trees on the streets; that he believes this is a City responsibility because it can be done better by the City agency. He did say he supports the registration of tree trimming companies. Committeemember Pannell asked what happens if Dutch Elm Disease strikes a private tree and a street tree; would the City take care of the street trees but leave the private trees alone? Mr. Tate said that at this time the State has a Dutch Elm Disease control program, and they actually move in where there isn't a governmental agency taking care of these trees, and requires that the private homeowner take care of it, help find contractors to do the work, etc.

Mike Huttnik, President of Tree Care, Inc., spoke. He said he has maintained trees in Sacramento for 20 years, and that he supports this ordinance. He said in the County many trees are severely headed, so that when limbs grows back they are weaker than the original branch attachment, creating a dangerous situation. He said that trees need to be pruned when there is a necessity to be trimmed, according to the individual tree and the species. He said he agrees tree trimmers should be registered,

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although he is not generally for more government. He feels tree trimmers as a group are not equally educated and they do not all deliver quality or sometimes even competent service to the public.

Robert Jason Wyatt, a Sacramento High School student, talked about trees in his own yard. He said the tree in front isn't a problem, but if it needs trimming, would they have to pay to have someone come out and trim it? Mr. Fitch said that in the County they do not provide any street tree trimming, so he would have to pay somebody to perform that service.

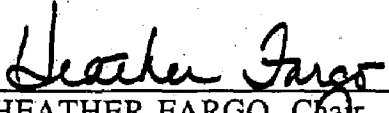
The next speaker was Ray Tretheway, Executive Director of the Sacramento Tree Foundation and also a member of the citizens' advisory committee which worked this ordinance. He said he is in support of the ordinance, specifically the registration of tree care companies and permits for maintenance easement private street tree trimming for homeowners. He asked whether there were any fines for violating the ordinance, and he asked about the statement that if money were available, the City would come in and do the trimming of front yard trees. Mr. Fitch said that violation of the ordinance would be an infraction, which would probably be a \$50.00 fine, and they could perhaps pursue something for the cost of lost property. Deputy City Attorney Diane Balter said that the fine is \$100.00, with another \$135.00 for penalty assessments, for a total of \$235.00. Chair Fargo asked the value of a heritage tree. Mr. Tretheway said that the environmental value alone to the City would be about \$52,000.00. As to Mr. Tretheway's second question regarding providing the service if funds are available, Mr. Fitch said that is the intention.

Committeemember Pane moved to have this ordinance brought back to Committee next month, with the following changes: (1) eliminate the phrase "as budgetary limitations allow," which would allow staff to treat all areas equally within budgetary amounts allocated each year to the tree division; (2) remove the provision requiring permits, free or not, for homeowners; and (3) leave in the registration provision, so if there is a problem with a contractor's work on street trees, the contractor won't be allowed to service street trees in the City. Pannell seconded the motion and Fargo concurred. This will come back to the Committee at its March 16th meeting.

The meeting was adjourned at 2:02 p.m.

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ATTEST:


HEATHER FARGO, Chair


JUDY SANDERS, Secretary