



Sacramento City Council

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COUNCIL COMMITTEE ON LAW & LEGISLATION

DOUGLAS N. POPE
CHAIRMAN
DAVID M. SHORE
LYNN ROBIE
WILLIAM A. SMALLMAN

LAW AND LEGISLATION COMMITTEE MEETING

May 23, 1985

2:00 P.M.

The meeting was called to order at 2:15 p.m. by Councilman Dave Shore. Also present was Councilman Bill Smallman. It was decided to go ahead and start the meeting rather than wait for Council Chairman Doug Pope and Councilwoman Lynn Robie, who arrived late.

Items 1 through 3 on the agenda, relating to air pollution, were continued until the June 20, 1985 meeting at the request of Assistant City Attorney Ted Kobey.

Item 4, Amendment to Sacramento City Code, Chapter 27, Relating to Park Use Rules and Regulations, was discussed. Mr. Erling Linggi of the Department of Community Services was present. Mr. Linggi stated that this change would allow the City to extend park hours on a case-case-basis as permitted by the Police Chief and the Director of Parks and Recreation. If a person wished a park to stay open later, they would request permission. If there are problems, the privilege could be revoked. Dave Shore made a motion and Bill Smallman seconded the motion that this amendment be recommended to the full Council.

Item 5 of the agenda relating to amending the cardroom ordinance had previously been continued until the June 20, 1985 meeting.

Item 6, Proposed Ordinance Relating to Discrimination on the Basis of Sexual Orientation, was introduced. This was the third meeting on this proposed ordinance, and the following persons were introduced as speakers:

PROPONENTS

Mr. J. B. Mr. B requested of the Council members and the press that he remain anonymous and that he not be filmed or photographed. He discussed serious discrimination he had encountered when attempting to rent an apartment. He feels there is a definite need for such an ordinance.

Daphne Macklin. Ms. Macklin feels that, with this ordinance, people could be open and honest about themselves. She is an attorney who works with civil rights law, and feels that any protection should be general and broad, as there are cases in the black community, too.

Mike Posea. He stated that most of the effects of sexual discrimination are hidden, which places a clear hardship on its victims. He said that he has had employers tell him he might not be able to advance in business if his sexual orientation were known.

Duff Johnson. Mr. Johnson works on the staff of Sacramento City College and sponsors a Gay Students on Campus group. He is concerned about self-esteem. He feels that in order to have a good self-esteem, you must be able to flaunt yourself, which gays cannot do. Heterosexuals put pictures of their wives/husbands/children on their desks, wear wedding rings, women change their names, etc., and it's okay -- you don't need an ordinance to do this. He said that if an ordinance were needed for that, you can be sure he would be here to support it, too.

Vera Marcus. Ms. Marcus asked the Council to end discrimination because of sexual orientation, as she would like to see an end to all discrimination. She stated that because she is black and a woman, she knows about discrimination. She feels there is no sound reason to deny housing or employment due to one's sexual orientation. She feels it is the public who must pay if people are denied these rights. She went on to explain some of the ways she has been actively involved in the past in helping eliminate discrimination.

Renee Francis. Ms. Francis is a member of the Sacramento Community Commission for Women. She said she was here to speak as a member and as a citizen. She stated that she has always made her friends on the basis of who they were, not by the color of their skin or their sexual preference.

Stan Hadden. Mr. Hadden discussed the issue of AIDS. He is a member of the AIDS Advisory Committee, and said that AIDS is not a political issue but a public health issue. He said that there are two epidemics: the disease and fear. He discussed some of the aspects of the disease of AIDS and feels it should not be an issue in the passing of this ordinance.

John Terry. Mr. Terry explained that he has not had too much of a problem with discrimination due to his sexual orientation, but that many of his friends have lost jobs, friends, housing, etc. He feels that sexual orientation is not a preference or a choice, but that you are who you are. He stated he was here in support of this ordinance on behalf of his friends. He also stated that, as mentioned at the last meeting, there is no need to fear for your children.

Marguerita Contreras. Ms. Contreras stated that she is an hispanic-American and is sensitive to the needs of others because she knows discrimination is a big problem. She feels gay men and lesbian women should be allowed the same rights as other members of the community. She said we need to use common sense and social justice.

Ron Farland. Mr. Farland expressed his appreciation to the City Council Committee members for their fact-finding approach regarding this ordinance. He said that there is a balance of information about "who we are and what people think about us", which is important in reaching a decision. He feels there is a need for this ordinance in order to eliminate stereotypes. He said people seem to be afraid gays will spread disease, be in and out of court with lawsuits, and that gays can decide their sexual preference as they decide to dye their hair, and this is not true.

Carol Nutt. Ms. Nutt is a representative of the California National Women's Caucus, but she is here on behalf of herself. She said she wants Sacramento to be the very best place to live. She said that she rents out a house, and would find it appalling to ask a person's sexual preference as she could lose the best tenant she might ever have. She feels Sacramento should be a city that doesn't discriminate against a person just because they live a different lifestyle than others.

Sherry Gordon. Ms. Gordon is the owner of Flash Gordon Costumes. She addressed comments made by Mr. Benvenuti, who spoke against this ordinance at a previous hearing as a "self-appointed leader of the business community", by saying that this is not true -- there are several hundred lesbian and gay business owners in Sacramento who pay their taxes and hire heterosexuals as well as gays in those businesses, and that Mr. Benvenuti did not speak for them. She explained that without an ordinance, homosexual business owners could be the ones to discriminate; i.e., "Heterosexuals need not apply." She said that homosexuals just ask that basic rights be given regardless of their sexual preference. She said that the most important thing is how well a person performs on the job, not sexual mores, and that the issue is human rights.

Marilyn Herman. Ms. Herman stated that for four years (1981-1984) she was responsible for carrying out the State of California sexual orientation project, and she cited many instances of discrimination where persons were forced to quit or be fired. She said that the City of Sacramento can make a positive statement about equal employment for all. She also stated that the State program is working. She suggested that the City adopt a comprehensive discrimination ordinance, including that of sexual orientation.

Bruce Tyler. Mr. Tyler addressed some statements made at previous meetings. The first was related to child abuse, and Mr. Tyler quoted some articles regarding Childfind. He feels that the statements made at previous meetings were ridiculously exaggerated. Regarding AIDS, he quoted an article which stated AIDS is killed by heat and that there is no possible way to catch AIDS in hamburger.

Lisa Dohrs. Ms. Dohrs shared some examples of discrimination she has experienced as a transsexual.

Father Charles McDermott. Father McDermott was from the Catholic Diocese of Sacramento. He said that some persons find themselves, through no fault of their own, to have a different sexual orientation. However, he feels they should not suffer from prejudice against their basic human rights. He said it is the job of Catholic moral teaching that no one should be denied their rights based on their private lives.

OPPONENTS

Henryne Hines. Ms. Hines stated that she was extremely concerned about the health, welfare and safety of the Sacramento community if this ordinance should pass. She feels this will hinder the growth of the community, due to the lewd and revolting sex acts which will be put into the public law. She quoted a number of cases in law dealing with sexual conduct, and feels that the City Attorney did not consider the sexual conduct issue, but rather the sexual gender. In Ms. Hines' opinion, the ordinance relates to conduct, but the law already protects the gender. She feels the ordinance is not designed to protect the homosexual individual, but rather to encourage lewd conduct. She said this ordinance will bring in prostitution, perversion and unlawful sex. She continued to cite cases in spite of Council Chairman Pope asking her to stop so that others could speak.

Ellen Nitshke. Ms. Nitshke had some questions regarding this ordinance. Regarding hiring, she wondered if a homosexual would have to be given preference over a heterosexual, or can an employer hire on the basis of qualifications? Ted Kobey, Assistant City Attorney, stated that qualifications would rule. Ms. Nitshke asked who would pay the defense of a lawsuit. Mr. Kobey stated that the employer would pay if he lost the case, but the homosexual would pay, at the court's discretion, if the homosexual lost. Ms. Nitshke asked whether a heterosexual could sue if a homosexual employer made sexual advances. Mr. Kobey stated that sexual harrassment of any kind is covered under existing State law. Ms. Nitshke asked why the ordinance was needed if laws were already in effect. Councilman Pope stated that this ordinance covers employment situations. Ms. Nitshke stated that discrimination doesn't always have to be because of sexual orientation, and shared some examples of discrimination because of being a woman, a black, or a single parent. She feels that people don't deny housing or employment to homosexuals unless the homosexual wants to make an issue about it. Therefore, she does not see a need for this ordinance.

Judith DeVine. Ms. DeVine stated that she is a "product of the '60s" and that she is always in the fight for freedom as she perceives it. However, she believes what the Bible says about homosexuals, and she read some passages regarding this issue. She said she feels that this ordinance is morally wrong and that she cares enough to oppose this destructive lifestyle. She concluded by saying that freedom is a choice, just as sexual bondage is a choice.

Gene Brandenburg. Mr. Brandenburg is a State of California employee. He quoted figures on AIDS which stated that 98.2% of the victims are homosexuals, and that carriers may have AIDS for up to five years without knowing it. He also said the article noted that AIDS may be transmitted through insects. Mr. Brandenburg stated that many communities are now deciding that they do not want to establish laws which make homosexuals a special class. This homosexual lifestyle should not be given special treatment. He was concerned about the establishment of new groups due to this ordinance, such as "Gay Big Brothers" and so forth.

Tom Drawbaugh. Mr. Drawbaugh stated that this was definitely a controversial issue, and that he is a firm believer of anti-discrimination. He stated that he has hired minorities, including a homosexual. However, he said that the homosexual became very vocal about his lifestyle and passed out literature, and "teased" the other employees about their potential for catching AIDS from him. He feels this is not a legitimate minority, but rather a choice.

Bill Silaghi. Mr. Silaghi said that although he spoke last week, he was upset with people who spoke and took quotes from the President, but did not finish the quotes because it was not to their advantage to do so. He also said he was upset about the risk of AIDS, and that this ordinance has no protection for the rest of the community. He feels this ordinance will open up Sacramento to the increased susceptibility of the dreaded disease, AIDS, and that he is prepared to take this matter to the polls and/or the U.S. Supreme Court if this ordinance should pass.

Frank Hurd. Mr. Hurd stated that he was present as a representative of God and his savior, the Lord Jesus Christ. He asked that the City stop this foolishness, and that "if you get away with this abomination, the Lord will hold you accountable."

E. O. Downs. Mr. Downs stated that as a Christian, the one thing he owes this community is to be a friend to everybody. However, he appealed to both sides of this argument to be logical-minded. He said that when he elects a local government official, he does not look at the person's I.Q., job, looks, or whatever, but whether he is logical-minded and will do what is best for the community. He said that he would join any group (gays, lesbians, bigamists, etc.) if he can be convinced that it is best for all and will bring greater peace and happier families (if a family at all). He appealed to the City to be logical-minded when voting on this ordinance.

Rev. W. B. Timberlake. Rev. Timberlake asked whether there is a chance of an overall ordinance. He said that State law already prohibits discrimination on all other areas but employment. He stated that there are all kinds of religions who oppose this ordinance, and that it takes away from the rights of other people.

Betty Gwaizdon. Ms. Gwaizdon is from the Sacramento Valley Apartment Association. She stated that she has received many calls from people who say they have no problems renting to homosexuals and that these people resent an ordinance saying they can be sued. She said this places members of her Association in a difficult situation. She explained that the Association's objectives are to maintain harmony and to take care of all renters. She said she does not believe that a local ordinance will protect any more than what is already in effect. She stated that she is aware the Council has a heavy weight regarding this decision, but she asked that they please explore other avenues. She said she feels that if this ordinance is passed, it will haunt us forevermore.

Gay Johnson. Ms. Johnson said that everyone discriminates at one time or another, even though we are not supposed to. She said she discriminates when she chooses one restaurant over another. She resents the fact that a previous speaker from NOW (National Organization of Women) spoke in favor of this ordinance on behalf of women, and Ms. Johnson wanted it clearly understood that NOW does not represent her.

SUMMARY

Chairman Pope spoke. He said that after hearing all the discussion, he has not been completely persuaded that there is a need for this ordinance. He feels there is one gray area regarding the employment situation. He said that at this time he could not vote for this ordinance as it stands, and suggested that the Committee make a recommendation to the Council that a special task force of nine people be designated to look into possible mediation for discrimination in housing and the need for City regulation. He said this committee of nine could look into this and come back to the Council in 180 days.

Councilman Dave Shore said that he agreed with this, and he also suggested that the Committee send this to the Human Rights Commission for their input.

Chairman Pope stated that the Human Rights Commission has already taken a position that the Council should definitely adopt this ordinance. He feels that the opponents might feel the Council is going into a biased group.

Councilman Shore asked whether the Council could work up an exact procedure policy before appointing a task force, and hoped that the Human Rights Commission could be involved in that. Councilman Shore also said that perhaps a general discrimination ordinance would be a good idea.

Chairman Pope said that he would support the idea of a general discrimination ordinance.

Councilwoman Lynn Robie at this time apologized for being late to the hearing, but explained that she had been in a meeting all day. She said that after sitting and taking notes for three days regarding this ordinance, she can clearly see that there is already legislation on the books in the area of fair housing, and that she truly wishes the State had done a better job with their explanations to the Committee. She questioned whether what they are doing at the State level is adequate. She said she does believe there is a problem in the area of employment, and that no one should be discriminated against. She agreed it would be good to have an overall discrimination ordinance, and no one group should be treated any different from another group. She feels a general discrimination ordinance would make it easier for both sides to live with. She stated that this will take some staff time and won't be done overnight. She also stated that she feels strongly that the Human Rights and Fair Housing is doing a good job, and that they need to have a part in working with staff in order to develop an overall program. She feels they will be a vital part of the research. She also agreed that there must be an emphasis on the employment situation.

Chairman Pope said he was willing to say "Let's look into it." He said it was not an easy issue in the employment situation.

Councilman Bill Smallman said that the way the ordinance was written, he was against it. He said he thinks there are enough laws to protect individuals now, and that every time a law is passed, you give up some of your freedom. He said that if it is necessary, then do it.

Councilwoman Robie at this time mentioned that she has received a lot of mail, some of it heartbreaking and consisting of things that could not be discussed openly at these hearings. She wanted people to know that she does answer her mail, but it takes time. She also wanted to state that, after hearing all of the testimony, she does not feel that AIDS is an issue here.

Councilman Shore motioned that the Committee recommend to the Council that they appoint a task force to look into the area of need for an overall discrimination ordinance. He also motioned that the Council look into mediation procedures for housing discrimination. Councilwoman Robie seconded the motion and it was unanimously approved. It was stated that this recommendation will go before the Council in about two weeks.

The meeting was adjourned at 4:45 p.m.