

# 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: August 16, 1990

MEETING TIME: 3:00 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 3:05 p.m. by Chair Lynn Robie.

PRESENT: Committeemembers Robie, Chinn, Serna and Pane.\*

GUEST: Councilmember Kastanis.

\*Committeemember Pane arrived at 3:35 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, discussed several pieces of legislation which are of interest to the City. He said that several pertinent flood bills have been approved, and that the bill relating to sale of tobacco products to minors was dropped due to opposition. He also informed the Committee that the mandatory water meters issue was dropped because of lack of votes in committee. He said there was no opposition to AB 3436, whereby CalTrans will help finance a study of freight consolidation. It was noted, also, that the bill prohibiting the sale of fortified wines failed passage in the Assembly, and that it probably won't be re-introduced because of lack of interest.

At this time AB 3689 (Hauser) was discussed. A copy of this bill is attached. This bill would permit installation of solar panels in condominium complexes. It was agreed to watch this bill in the future. Serna requested Ken Emanuels to communicate the Committee's support of AB 3736 regarding railroads and CalTrans. This bill is a miscellaneous bill containing ten different provisions.

COMMITTEE ACTION SHEET

- 2. **Ordinances regulating parking of commercial vehicles weighing 10,000 pounds or more on private property zoned residential or neighborhood commercial and on streets fronting schools and hospitals.**
  - A. **An ordinance amending Section 25.111 of the Sacramento City Code, relating to parking commercial vehicles in residential districts.**
  - B. **An ordinance adding Section 25.150-1 to the Sacramento City Code relating to parking of commercial vehicles weighing 10,000 pounds or more on residential property.**

Recommendation of Staff: Review and make recommendation.

Committee Action: Supported and forwarded to Council.

Voting Record: Moved: Serna  
 Seconded: Chinn  
 Ayes: Serna, Chinn, Robie  
 Absent: Pane

MINUTES:

Deputy City Attorney Diane Balter introduced this item to the Committee. She explained that these ordinances are more restrictive as to where these large vehicles may park, including prohibition of parking near schools, colleges, and hospitals. Attorney Balter stated that members of the trucking industry were not notified of this meeting, but that they would be notified prior to the Council meeting. Serna moved to support both of the above ordinances and forward them to full Council, Chinn seconded the motion, and they were unanimously supported.

- 3. **Resolution supporting the National Endowment for the Arts Reauthorization.**

Recommendation of Staff: Recommend support and forward to Council.

Committee Action: Supported and forwarded to Council.

Voting Record: Moved: Chinn  
 Seconded: Serna  
 Ayes: Chinn, Serna, Robie, Pane

MINUTES:

Bob Thomas, Director of Parks and Community Services, presented this item to the Committee. He said that this resolution came from the Crocker Art Museum and the Metropolitan Arts Commission. He explained that the resolution asks the City to support the National Endowment

ITEM CONTINUED ON FOLLOWING PAGE.

COMMITTEE ACTION SHEET

2. ITEM CONTINUED FROM PREVIOUS PAGE.

for the Arts, particularly in the areas of Congressional funding and artistic freedom, as censorship should not be allowed. He also noted that President Bush supports reauthorization of the NEA without restrictive language, and that Sacramento artists and art institutions have received considerable funding from the NEA in the past.

\*Committeemember Pane arrived at 3:35 p.m.

There were several persons in the audience who spoke in support of this resolution, including Pat Davidson, Vice Chair of the Sacramento Metropolitan Arts Commission and Glynnis Wood-Alberts, Executive Director of Sierra Two Center for the Arts and Community. There was some discussion of censorship. Chinn moved to support the resolution, Serna seconded the motion, and it was unanimously supported and will be forwarded to full Council.

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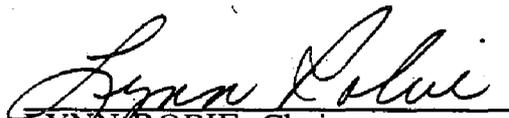
4. Oral update on State budget legislation.

Chair Robie stated that this item has already been discussed in Council.

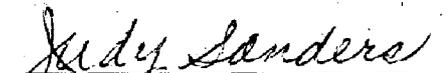
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The meeting was adjourned at 3:40 p.m.

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LYNN ROBIE, Chair

ATTEST:

  
JUDY SANDERS, Secretary

AMENDED IN SENATE AUGUST 13, 1990

AMENDED IN SENATE JULY 27, 1990

AMENDED IN SENATE JUNE 20, 1990

AMENDED IN ASSEMBLY MAY 2, 1990

CALIFORNIA LEGISLATURE—1989-90 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 3689**

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**Introduced by Assembly Member Hauser**

March 1, 1990

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An act to amend Sections 714, 1354, and 1366 of the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 3689, as amended, Hauser. Homeowners' associations: assessments.

(1) Under existing law, covenants, conditions, or restrictions contained in any document affecting transfer or sale of any interest in real property are limited in the types of ~~limitations~~ *restrictions* that can be placed on the installation or use of solar energy systems.

This bill would modify the criteria for permissible restrictions in existing law, and state the intent of the Legislature in this regard. The bill would also request the California Energy Commission to convene specified meetings on the subject, and to make recommendations thereon to the Legislature on or before January 1, 1991.

(2) Existing law provides that covenants and restrictions in a common interest development declaration are enforceable as equitable servitudes, as specified.

This bill would provide that in any action to enforce such a declaration, the prevailing party shall be awarded reasonable attorney's fees and costs.

(3) Under existing law, a homeowners' association is required to levy regular and special assessments sufficient to perform its obligations, as specified.

This bill would provide that the association shall not impose annual increases of regular assessments, pursuant to a specified provision governing increases in assessments, unless the board of directors of the association has prepared and distributed a pro forma operating budget to the members, as specified, or has obtained the approval of more than 50% of the owners of the association.

(4) The ~~bill~~ *above changes* would become operative July 1, 1991. *The bill would also set forth a declaration of legislative intent and would request meetings of interested parties to recommend standards respecting reasonableness of restrictions on solar energy systems, to be transmitted to the Legislature by July 1, 1991.*

Vote: majority. Appropriation: no. Fiscal committee: *yes*  
no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature in  
2 enacting this act to promote the economic installation  
3 and efficient operation of solar energy systems in  
4 common interest developments, consistent with  
5 covenants, conditions, and restrictions that do not  
6 significantly increase the cost of the energy system or  
7 significantly decrease the efficiency of the energy system.

8 The Legislature hereby requests ~~the California Energy~~  
9 ~~Commission to convene and advise~~ *that* meetings of  
10 interested parties *be convened* for the purpose of  
11 drafting standards or guidelines to define the  
12 "reasonableness" of *these* restrictions in clear terms, and  
13 to make recommendations to the Legislature in this  
14 regard on or before ~~January~~ *July* 1, 1991.

15 SEC. 2. Section 714 of the Civil Code is amended to  
16 read:

17 714. Any covenant, restriction, or condition contained  
18 in any deed, contract, security instrument, or other  
19 instrument affecting the transfer or sale of, or any

1 interest in, real property which effectively prohibits or  
2 restricts the installation or use of a solar energy system is  
3 void and unenforceable.

4 This section shall not apply to provisions which impose  
5 reasonable restrictions on solar energy systems.  
6 However, it is the policy of the state to promote and  
As 7 encourage the use of solar energy systems which to the  
8 extent feasible provide maximum solar access, and to  
9 remove obstacles thereto. Accordingly, reasonable  
10 restrictions on a solar energy system are those restrictions  
11 which do not significantly increase the cost of the system  
12 or significantly decrease its efficiency or specified  
13 performance, or which allow for an alternative system of  
14 comparable cost, efficiency, and energy conservation  
15 benefits.

16 For the purposes of this section, "solar energy system"  
17 has the same meaning as defined in Section 801.5.

18 SEC. 3. Section 1354 of the Civil Code is amended to  
19 read:

Co 20 1354. The covenants and restrictions in the  
21 declaration shall be enforceable, equitable servitudes,  
22 unless unreasonable, and shall inure to the benefit of and  
23 bind all owners of separate interests in the development.

24 Unless the declaration states otherwise, these servitudes  
C 25 may be enforced by any owner of a separate interest or  
26 by the association, or by both. In any action to enforce the  
27 declaration, the prevailing party shall be awarded  
28 reasonable attorney's fees and costs.

29 SEC. 4. Section 1366 of the Civil Code is amended to  
30 read:

31 1366. (a) Except as provided in this section, the  
32 association shall levy regular and special assessments  
Ca 33 sufficient to perform its obligations under the governing  
34 documents and this title. However, annual increases in  
35 regular assessments for any fiscal year, as authorized by  
36 subdivision (b), shall not be imposed unless the board has  
37 complied with subdivision (a) of Section 1365 with  
38 respect to that fiscal year, or has obtained the approval of  
39 owners, constituting a quorum, casting a majority of the  
40 votes at a meeting or election of the association

1 conducted in accordance with Chapter 5 (commencing  
2 with Section 7510) of Part 3 of Division 2 of Title 1 of the  
3 Corporations Code and Section 7613 of the Corporations  
4 Code. For the purposes of this section, "quorum" means  
5 more than 50 percent of the owners of an association.

6 (b) Notwithstanding more restrictive limitations  
7 placed on the board by the governing documents, the  
8 board of directors may not impose a regular assessment  
9 that is more than 20 percent greater than the regular  
10 assessment for the association's preceding fiscal year or  
11 impose special assessments which in the aggregate  
12 exceed 5 percent of the budgeted gross expenses of the  
13 association for that fiscal year without the approval of  
14 owners, constituting a quorum, casting a majority of the  
15 votes at a meeting or election of the association  
16 conducted in accordance with Chapter 5 (commencing  
17 with Section 7510) of Part 3 of Division 2 of Title 1 of the  
18 Corporations Code and Section 7613 of the Corporations  
19 Code. For the purposes of this section, quorum means  
20 more than 50 percent of the owners of an association. This  
21 section does not limit assessment increases necessary for  
22 emergency situations. For purposes of this section, an  
23 emergency situation is any one of the following:

24 (1) An extraordinary expense required by an order of  
25 a court.

26 (2) An extraordinary expense necessary to repair or  
27 maintain the common interest development or any part  
28 of it for which the association is responsible where a  
29 threat to personal safety on the property is discovered.

30 (3) An extraordinary expense necessary to repair or  
31 maintain the common interest development or any part  
32 of it for which the association is responsible that could not  
33 have been reasonably foreseen by the board in preparing  
34 and distributing the proforma operating budget under  
35 Section 1365. However, prior to the imposition or  
36 collection of an assessment under this subdivision, the  
37 board shall pass a resolution containing written findings  
38 as to the necessity of the extraordinary expense involved  
39 and why the expense was not or could not have been  
40 reasonably foreseen in the budgeting process, and the

1 resolution shall be distributed to the members with the  
2 notice of assessment.

3 (c) Regular and special assessments levied pursuant to  
4 the governing documents are delinquent 15 days after  
5 they become due. If an assessment is delinquent the  
6 association may recover all of the following:

7 (1) Reasonable costs incurred in collecting the  
8 delinquent assessment, including reasonable attorney's  
9 fees.

10 (2) A late charge not exceeding 10 percent of the  
11 delinquent assessment or ten dollars (\$10), whichever is  
12 greater, unless the declaration specifies a late charge in  
13 a smaller amount, in which case any late charge imposed  
14 shall not exceed the amount specified in the declaration.

15 (3) Interest on all sums imposed in accordance with  
16 this section, including the delinquent assessment,  
17 reasonable costs of collection, and late charges, at an  
18 annual percentage rate not to exceed 12 percent interest,  
19 commencing 30 days after the assessment becomes due.

20 (d) Associations are hereby exempted from  
21 interest-rate limitations imposed by Article XV of the  
22 California Constitution, subject to the limitations of this  
23 section.

24 ~~SEC. 5.~~ This act shall become operative on July 1,

25 ~~SEC. 5.~~ Sections 2, 3, and 4 of this act shall not become  
26 operative until July 1, 1991.