

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: JULY 18, 1991

MEETING TIME: 2:00 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 2:00 p.m. by Chair Lynn Robie.

PRESENT: Committeemembers Robie, Chinn, and Pane

ABSENT: Committeemember Serna

Representatives present at the meeting to discuss Item 3 relating to sound level restrictions for outdoor recreational activities requested that their item be heard out of order, as they need to catch a plane. Chair Robie agreed to hear the agenda in the following order: 1, 3, 2, 4 and 5.

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

Recommendation of Staff: File

Committee Action: Filed

MINUTES:

Ken Emanuels, the City's Legislative Advocate, discussed the status of legislation affecting the City. He said that the Legislature adjourns tonight for four weeks. He also pointed out that the budget has been signed, the bill relating to booking fees has been dropped, the reduction of cigarette tax subventions goes before the Governor

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COMMITTEE ACTION SHEET

1. ITEM CONTINUED FROM PREVIOUS PAGE.

today, and the LAFCO legislation authorizing a specific City of Sacramento seat on the Commission is on the Senate floor. He said the Sacramento-Yolo Port Commission matter is in a form the City is opposed to and must be taken very seriously; he has an appointment with the Mayor tomorrow if this bill does not arrive on the Governor's desk unopposed. Other bills Mr. Emanuels discussed were AB 2254, which would authorize General Services to purchase the building they are currently leasing. He said this bill is sponsored by the building owner, and that the building is in a redevelopment project area, which would take it off the City's tax rolls.

Chair Robie asked about AB 2090 regarding water rights. Roberta Larson of Public Works Administration explained that staff has received a copy of the bill but hasn't taken a position on the bill because some parts of it are favorable to the City. Ms. Larson said the bill won't be heard again until August.

Deputy City Attorney Diane Balter asked the Committee to consider SB 1056 (Bergeson), which would provide that when a city annexes territory, all streets become part of the city and the city is then responsible to maintain that street. She then passed out a staff report on this bill (copy attached) recommending opposition. Chair Robie stated that due to the fact this Committee deals with legislation which often involves time constraints, it is appropriate to take action on bills without placing them on the formal agenda.

Recommendation of Staff:	Recommend opposition
Committee Action:	Opposed
Voting Record:	Moved: Chinn Seconded: Pane Ayes: Chinn, Pane, Robie Absent: Serna

Committeemember Chinn thanked Mr. Emanuels for monitoring the State budget and asked what was done about the PERS issue. Mr. Emanuels explained that the restructuring of appointments to PERS did not take place, and that a permanent, low-cost, vested cost-of-living increase for retirees was passed, for which the City will see a savings some time in the future.

COMMITTEE ACTION SHEET

3. **An Emergency Ordinance Adding Sections 66.210 through 66.212 to Chapter 66 of the Sacramento City Code, Relating to Sound Level Restrictions for Outdoor Recreational Activities.**

Recommendation of Staff: Recommend support and forward to Council.

Committee Action: Supported and forwarded to Council.

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

MINUTES:

Gary Little, the City's Citizens Assistance Officer, explained that in April this Committee heard a recommendation to change Chapter 13 of the Sacramento City Code requiring permits to hold outdoor concerts and limiting the level of sound at outdoor concert facilities. He said staff met with several parties and decided this was not the best approach to take, and instead decided to separate sound level restrictions and permit procedures. He said that today the Committee is hearing the issue of sound levels in Chapter 66. He explained that the proposed ordinance contains the same levels of sound as discussed previously, but that the original recommendation was for 94 decibels and this proposed ordinance suggests 96 decibels as a compromise. He said that time limits are also discussed; amplified sound would be curtailed after 11:15 p.m., except in September and October, when it would be curtailed at 10:30 p.m. He went on to say that in September the weather conditions in Sacramento will change and bring a higher sound impact to the community, which is why this proposed ordinance is an emergency ordinance. He also said that this ordinance is not intended to go after any one group or any one facility; that it applies to all locations throughout the City.

Charlie Shoemaker of Citizens Against Noise passed out "The Facts" (attached) and explained that 96 decibels is not satisfactory. He said his group supports 96 in May through August, but would expect it to be lowered in September. He pointed out that 55% of the noise complaints in the past 1-1/2 years have been for concerts below 94 decibels.

Rick McWilliams, President of the East Sacramento Improvement Association, discussed enforcement. He said that the enforcement procedures in the proposed ordinance are woefully inadequate, and that the City should provide staff with quick solutions such as a fine of \$25,000.00 or immediate shut-down of the concert.

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3. ITEM CONTINUED FROM PREVIOUS PAGE.

Mary Babich of Citizens Against Noise told of a Doobie Brothers concert two years ago at Cal Expo where the song "Can You Hear the Music" was heard loudly throughout her neighborhood and almost knocked them out of their homes. She then said that this year the same group played at 94 decibels and it worked. She also said she felt Bill Graham Presents would not lose money in Sacramento with the lower noise limits and asked the City to go with a 94 decibel limit.

A citizen of the River Park area explained that even with his doors and windows shut and his TV on, he can still hear concerts. He also expressed concern as to the lack of enforcement and suggested adding strict financial enforcement.

Danny Scher of Bill Graham Presents voiced opposition to the proposed ordinance because he feels it will put Bill Graham Presents out of business in Sacramento. He explained they have a huge investment in Sacramento and that the sound problems are much better now than they have been in the past. He went on to say that last year Bill Graham Presents agreed to a 98 decibel level and they had no complaints prior to Labor Day over the past three years. He said that the proposed ordinance, with its limitation of 96 decibels before and after Labor Day, would force Bill Graham Presents to cancel 40% of their concerts, which would be 75%-80% of their total income, because these concerts would exceed the proposed noise limit. He explained that Bill Graham Presents employs 550 people with an annual payroll of approximately \$1 million, not counting the increased restaurant and hotel revenues. He went on to say that to date, using 98 decibels, their concerts have not exceeded this limit and have received only 12 complaints. He added that complaints are sometimes made when people hear loud music, even though Bill Graham Presents isn't *holding* a concert. He said they would not consider moving their concerts to Arco Arena, since Cal Expo is for outdoor entertainers, using outdoor equipment, who plan their tours accordingly. He said Bill Graham Presents would have to move their shows to another town, which could be as far as 150 miles away. He then explained that there is very little difference between 96 and 98 decibels and it is virtually impossible to measure outdoor concerts, but that there is a difference to the performers and to the attendees. He said they would like to suggest that the City have a concert and measure it at 94, 96 and 98 decibels at the concert location and at various locations in the community. He concluded by stating that Bill Graham Presents feels 98 decibels is a level which can be reasonably maintained, and requested the City set the sound limit at 98 decibels before and after Labor Day.

Kathryn Lopez, representing Assemblyman Lloyd Connelly, stated Mr. Connelly feels strongly that 94 decibels should be the maximum sound limit in the City of Sacramento.

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3. ITEM CONTINUED FROM PREVIOUS PAGE.

Bart Cavanaugh thanked the Committee for the proposed ordinance whereby Chapter 66 of the City Code is being amended, rather than Chapter 13. He then complained about some of the problems he has been experiencing with members of the Citizens Against Noise group.

Ken Stuart, Chief of the Environmental Health Division for the County of Sacramento, explained some of the technicalities involved in measuring sound, and summarized some of the complaints received due to loud concerts. He said concerts can perform under 98 decibels, but that no matter what level the City sets, it may not satisfy everyone. He then thanked Gary Little, the City's Citizens Assistance Officer, and Diane Balter, Deputy City Attorney, for their hard work in preparing this proposed ordinance. As for enforcement, he agreed that this is very difficult. Attorney Balter said the City Attorney's office would not hesitate to file for injunctive relief, and would expect the District Attorney to prosecute any citations issued.

Committeemember Pane thanked staff for their hard work on this ordinance and moved to support the emergency ordinance relating to sound level restrictions for outdoor recreational activities. Chinn seconded the motion and Robie concurred, stating that though she doesn't feel this ordinance is perfect, she thinks it is a good ordinance. This ordinance will now go before the full Council with this Committee's recommendation.

2. An Ordinance Adding Article II (Sections 37.100-37.103) to Chapter 37 of the Sacramento City Code, Prohibiting the Sale of Tobacco Products From Vending Machines. (Continued from June 20, 1991 Committee meeting.)

Recommendation of Staff: Review and make recommendation to Council.

Committee Action: Review and bring back to Committee.

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

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COMMITTEE ACTION SHEET

2. ITEM CONTINUED FROM PREVIOUS PAGE.

MINUTES:

Deputy City Attorney Diane Balter explained that this ordinance was drafted to reduce involuntary exposure to side-stream smoke, eliminate exposure by employees where vending machines are located, and reduce access to cigarettes by minors. She noted the ordinance provides that where a vending machine owner and a business have a contract, the ordinance is written so as not to unconstitutionally impair the contract; also, that there is a phase-out for newly purchased machines if the owner can demonstrate that there is no economic way to use the machine in another way.

Susan Montalban, a concerned parent, speaking on behalf of herself and her family, explained how her children and other children attempted to purchase cigarettes over the counter and from vending machines, and were successful 100% of the time. She explained that the children ranged in age from 10 to 15 years old at the time they purchased these cigarettes. Mrs. Montalban expressed her support of the proposed ordinance.

Shannon Pettit, a volunteer with the American Lung Association, further explained the survey whereby children successfully purchased cigarettes. She said she supports the proposed ordinance but disagrees with the proposed ordinance's three-year phase-out period.

Craig Powell, counsel for a group of vending machine company owners, expressed his opposition to the ordinance. He said the appellate court in the *Rancho Mirage* case could reach a result which would invalidate our ordinance, and suggested we defer it until the *Rancho Mirage* issue is solved. He went on to say that his clients are family-owned businesses employing local people. He explained a method of prohibiting access by minors to cigarettes from vending machines by the use of a new remote-control device where, when money is inserted into the machine a buzzer sounds and a business employee may check a person's I.D. and must activate a remote control before the cigarette purchase can be completed. He said that this method would put the vending machine purchases on the same par as over-the-counter cigarette purchases. He also suggested that if the City is serious about stopping youth access to cigarettes, it should require everyone to obtain a license to sell tobacco products, with the condition that they cannot sell to minors or the license would be revoked. He said bars could be excepted, since minors are not allowed to patronize bars. He continued by saying that he and his staff would be more than willing to work with City staff to fashion a more acceptable ordinance.

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2. ITEM CONTINUED FROM PREVIOUS PAGE.

Chair Robie said she thinks this ordinance stands alone, but that she will ask staff to look at licensing the sale of tobacco products, as a separate item, and present it at a future Committee meeting for consideration.

Betty Turner, staff member of the American Lung Association, said she supports the ordinance to totally ban the sale of tobacco products from vending machines. She also expressed her feeling that remote control devices on vending machines won't work, since the Lung Association survey showed that retailers will sell cigarettes to minors over the counter, so what would prevent them from activating the remote control without first checking identification?

Jack Love, a vending machine company owner, explained that his family has been doing this work since 1945 and that tobacco vending accounts for about 50% of his business. He said the impact of this ordinance on his business would be great, and that he would be willing to cooperate in any reasonable manner to eliminate the sale of tobacco products to minors. He said only a small percentage of tobacco sales occur through vending machines, and that he is just a small business who is concerned. He then pointed out that cigarettes through vending machines are very expensive, and minors generally do not wish to spend that much money when they can purchase over the counter for a lot less. He said he feels all purveyors of tobacco products should be on the same par, rather than eliminate only the vending machines. He expressed his opposition to the ordinance as proposed and requested the Committee look at the alternatives presented today.

Committeemember Chinn said he was inclined to move for a recommendation that the City Attorney work with the industry on a compromise proposal and bring it back directly to the City Council or back to the Committee. He then asked Mr. Powell whether the remote control devices were available right away, should the Council vote to go with that alternative. Mr. Powell said they were not, and that it would take approximately 90-120 days. Chinn continued by saying his second choice would be to wait until the *Rancho Mirage* case was decided. Deputy City Attorney Diane Balter said there was no indication as to when a decision in this case would be made.

Chinn moved to have the City Attorney work with the vending machine industry toward a compromise proposal as suggested by Mr. Powell. Pane seconded the motion. Chair Robie stated she would not support this motion, as she is not convinced these remote control devices will necessarily work. She said no one in the nation has used these devices, and if minors can purchase tobacco products over the counter, they can purchase from a vending machine because, most likely, an employee won't check the Identification. She went on to say that she feels this is one

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4. ITEM CONTINUED FROM PREVIOUS PAGE.

Henry Newborn spoke again, saying that the only person who knows what a horse can do is the person who works with that horse; it's like buying a truck and not knowing how to drive it well enough to pass the test. He said that if a horse is in stress at 90° he will take the horse home, as he knows his horses.

Margaret Waiver, representing two animal organizations, expressed her thanks for the pending regulations. She said that animals depend on people's passion and desire to help. She recommended 95° as a temperature limit, with no exceptions, since she said the animals do suffer in the heat. She said many people in business in Old Sacramento have been concerned about the animals, but that no one had ever brought their concerns to Council. She went on to say that not everyone in the business knows when their horse is in stress.

Terry Barnato, representing Vets for Animal Rights, said that she will submit recommendations from veterinarians to the City Council next week. She said she is opposed to using animals in this fashion at all, as it puts animals in jeopardy of physical harm. She said she feels the 100° limit is too warm, and that the 8-hour stretch to work the horse might be too lengthy.

Terry Clemmon, a horse-drawn vehicle operator from Australia, explained that most people in the horse industry who depend on the horses for their income take very good care of their animals. He explained that in Australia it gets 109° in the shade, and the horses, having been born and raised there, become accustomed to the temperature in which they live. He said most horse owners would starve before they would let their horses go without food.

Carol Gage, representing Animal Allies, expressed opposition to horse-drawn carriages for any reason, but appreciates the current ordinance. She suggested the proposed ordinance be considered interim provisions while the City explores other alternatives to horse-drawn carriages, such as paddle carts or colorful jitneys.

Kevin Van Patton of Cowboy Carriages stated that they have invested thousands of dollars in their animals, and that they are well fed, well cared for, and exercised. He said they have saved many animals' lives by keeping them working, rather than leave them standing out in a pasture. He said that when you invest that much money in your horses, you don't overwork or mistreat them. He said they have some of the best-kept horses around, and that the horses don't pull that much weight. He said he opposes the three-carriage-per-company limit. He said that Cowboy Carriages is the biggest company, with seven carriages; that he has invested seven years and a lot

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4. ITEM CONTINUED FROM PREVIOUS PAGE.

of money into making his company the biggest company, and that this would cut his business by 50%. He also expressed opposition to the predetermined maps and prices for a tour, as he feels each company should be able to charge their own prices.

Ken Harris explained that posting prices would eliminate unfair competition and customer confusion. He also explained that the limit on the number of carriages is needed due to the potential for overcrowdedness when considering cars, pedestrians and horse-drawn vehicles in a small area (Old Town), as well as the fact that there are only 11 stops for the horses in that area. Chair Robie explained that the City also requires prices to be displayed on taxicabs. Mr. Harris said that the vendors must agree to established prices for one certain route, for continuity; however, they can set their own prices for other tours or routes.

Pokey Brewer, a horse-drawn vehicle owner/operator, explained that she pays \$95.00 for shoes for her horses every five weeks, but that in the past five years she has purchased only one pair of good boots for herself. She said that if it is too hot for her to work, it is too hot for her horse to work. She went on to explain that since her horses provide her with her income, she takes very good care of them.

Committeemember Pane expressed concern over the three-carriage-per-company restriction. Chinn expressed concern over the 100° temperature limit, which he feels may be too low, and whether or not to tighten up the exceptions. Chair Robie said she is convinced that the operators take good care of their animals, so she also questions the 100° temperature limit. Chair Robie said this is a compromise between different interests -- some don't want to see horses used in this way at all, and others use them for their living. She said she recommends adopting this ordinance as an emergency ordinance, as recommended, then come back with data on the temperature issue and the number of vehicles. Chinn added that he would also like to see some better language regarding the exemptions. As to the number of horse-drawn vehicles allowed, Committeemember Pane stated he has never seen 12 carriages in Old Sacramento at one time.

Chinn moved to support the emergency ordinance amending horse-drawn vehicle regulations and forward it to Council, Pane seconded the motion, and it was unanimous supported.

COMMITTEE ACTION SHEET

5. An Ordinance Amending Section 37.15 of the Sacramento City Code Relating to Application of City Smoking Regulations in Buildings Owned or Managed by the County of Sacramento.

Recommendation of Staff: Recommend support and forward to Council.

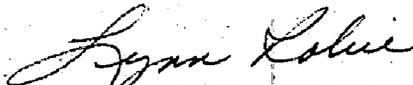
Committee Action: Supported and forwarded to Council.

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

MINUTES:

There was no discussion on this item.

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


LYNN ROBIE, Chair

ATTEST:


JUDY SANDERS, Secretary