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CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET

SACRAMENTO, CALIFORNIA 95814

CITY HALL ROOM 203

TELEPHONE (916) 449-5426

LORRAINE MAGANA
CITY CLERK

MEMORANDUM

TO: MAC MAILES, ASSISTANT CITY MANAGER

FROM: LORRAINE MAGANA, CITY CLERK *LM*

SUBJECT: REFERRAL OF ITEM NO. 19, AGENDA OF FEBRUARY 10, 1981

DATE: FEBRUARY 10, 1981

Attached is the motion and partial transcript of Item 19 beginning with motion by Councilman Dan Thompson.

sj
Encl.

cc: Planning Director
City Attorney

February 10, 1981 - Item 19

Thompson Mr. Mayor I would like to move that we direct the City Attorney, Planning Staff, City Manager's Office to contact the W. P. immediately and request the information that we feel is pertinent to our review this case in its' totality.

Isenberg Any objection to that. All right, that's the order. Ok. What else? Without objection...

Thompson Regarding prior violations. Jim...

Isenberg Can I just make...Let me just assure you that if you expect to have a public hearing on the history of violations two weeks from now. That will not happen. In addition, I doubt whether the Council has the place to start with that anyway. It strikes me this is much more a planning issue and the Planning Commission would get involved if we're intending to exercise rights and so on. You tend to get their attention where the hearing is held and on what subject it seems to me is something we ought not to fall into casually because we certainly are not going to start off and spend hours on an investigatory hearing the first time out to bat on this one.

Connelly I think the thrust of Dan's comments is a good one. I think we ought to treat it as a motion. Because the thrust of that is to direct the City Attorney to contact W.P. and then indicate that we are absolutely deadly serious about the problems they have there and the violations with the grant deed that's one. Second that they enter into on a rapid basis negotiations and discussions with our Planning Department, the City Attorney and a representative from the neighborhood group about those problems and then third, come back to us. At a minimum come back to us with a status report kind of thing, you know, within 30 days, 45 days, what's appropriate.

Jackson Ok. Do you want a representative of Western Pacific here when we come back to the Council.

Isenberg Let me make a suggestion. My suggestion would be that we give them a time frame and the time frame include the fact that we've directed the Planning Staff to present to the Planning Commission at an appropriate time a tentative report on possible violations.

Thompson I'd like to move that Mr. Mayor...

Isenberg Unless you do something like that I'm not even saying what the date is and I'm not, by the way, suggesting that the Planning staff go out to the Western Pacific yard and sit there and count trains and count employees or anything like that. Question about whether we have the legal authority for doing it that way. But it seems to me that unless you have a forum

- Isenberg (cont) you're not going to get anything answered and if you tied in, I think, to the only forum that's around which is the Planning Commission as a starting place that makes a lot more sense than anything else.
- Thompson With that, Mr. Mayor, can I move Connelly's comments and my comments combined...
- Isenberg Mr. Connelly moves, I'm sorry, Mr. Thompson moves, Mr. Connelly seconds that the letter from the City Attorney will reflect that the matter will be referred to the Planning Commission for a hearing on the question of possible past violations by Western Pacific and possible remedial actions of the widest sort which might be taken by the City of Sacramento. In addition, a reasonable time frame that will be set after consultation between the Attorney's Office, the Planning staff and the neighborhood association. And the Council should get a copy of the status report on the response from Western Pacific. Why don't you add as a P.S. that I suggested we suponea them if they don't provide the information.
- Connelly That wasn't my motion but it's close enough.
- Isenberg Ok. All right, discussion. Call the roll.
- AYES: Unanimous
ABSENT: Robie
- Isenberg Now with regards to the resolution which is something we haven't talked about yet. May I suggest that if somebody wants to make it it be with the amendment that Mr. Connelly suggested nothing is intended by this reaffirmation of rights to waive objections to prior violations that may have occurred.
- Thompson Can I ask the Association something. At this point after hearing the discussion in regards to the...do you have any comments or...
- Lauwreys No I think this is appropriate.
- Isenberg Caucas, caucas.
- Lauwreys May we have a caucas.
- Pope What is the goal out of all of this?
- Roberts More meetings.
- Lauwreys Yes, we still feel the resolution would be helpful of going down on record with the stipulations that Councilman Connelly put in too, which is a simple sentence to put in.
- Thompson Mr. Mayor I would like to move the resolution with the additional language drafted by the City Attorney that indication that we're not waiving any past violations that may have occurred.
- Isenberg Is there a second?

Hoeber Second.

Isenberg Mr. Hoeber...Discussion. Mr. Pope

Pope I still had a question that nobody answered what the ... goal out of all of this. Move W.P. out of Sacramento.

Hoeber ...stop harassing the neighborhood.

Connelly Let me tell you what some reasonable goals would be. Reasonable goals would be to have them put in some noise buffers which should have been required in 1909 but weren't because there wasn't a neighborhood there, and that's not an unreasonable request in the light of the neighborhood and the fact that they got that land from the City originally for virtually nothing. Reasonable requests would be some controls about the time that they make noise after 10:00 p.m. at night. The sad truth is that I wouldn't talk as grumpy as I have except that I've dealt with the W.P. on other issues and you kind of have to take the milk bottle and rap them on the head to get their attention. And so certainly you don't want a posture, at least I don't, and I don't think expressed or implicit in this motion that we want them out of town. But we do want to get their attention and we do want them to deal with us in a serious vein about resolving some legitimate neighborhood problems that they've created.

Pope No, no. I think that's a ... goal but for all you people sitting out there, you know, you've gotta say that that yard was there before you were.

Isenberg All right. ... Mr. Connelly doesn't necessarily ...called for a response.

Van Duyn Mr. Mayor - I'm not intending to respond to Councilman Pope's questions... I'm trying to clarify the violations that the Council's speaking to. Are you talking about violations possible. Zoning controls. Are you talking about violations relative to the agreement that the City entered into in 1909, reaffirmed in 1969.

Fisher All the above.

Isenberg I think Mr. Van Duyn. I think realistically. I think realistically what you're going to have to do is two part. You're going have to study the deed and you're going to have to see what it was that Western Pacific agreed to do, determine based on whatever reasonable evidence you can get in a reasonable fashion...

Van Duyn I understand that Mr. Mayor but...

Isenberg ...and second because I think that there a part of that deed that's led to a lot of this, the change of use and particularly the off loading of the piggyback arguably, arguably is very similar to what we normally do in increased activity in a properly zoned area that takes it out of that permitted use, for example.

Van Duyn Let me explain one thing Mr. Mayor. The property is presently zoned heavy industrial and two, the uses that are being conducted out there are consistent with that zoning.

- Isenberg They may not be consistent...
- Van Duyn They may have some problems relative to noise violations and so on. And I'm not suggesting that's not a problem. All I'm trying to say is that as far as use goes and loading piggybacks and that kind of thing are incidental to that zone and are allowed.
- Roberts Seems like I've heard that song before Marty.
- Van Duyn I'm not suggesting that there isn't a problem out there.
- Roberts I know what you're saying.
- Van Duyn I'm just telling you that as far...what the Planning Commission can do with that. I just don't want the residents to get as misimpression of how far the Planning Commission can go with regulating the number of piggyback units that are unloaded and all that kind of thing. Because that they cannot do.
- Isenberg In dealing with railroads you always have to have some encouragement for them to talk to you. I only regret, the only regret I have is, is that this is not Southern Pacific. Because no matter what you say about Western Pacific, Southern Pacific is so much the worse railroad in terms of public accountability that you can't believe it. Could you figure some tie-in with Southern Pacific.
- Lauwreys To respond to Councilman Pope's concern. We are concerned as residents in the area with local self-determination. Clearly we come to those dear beloved representatives closest to us. You the honorable Councilmen and our Mayor. We have been disturbed, I personally have been woken up countless nights by the banging and crashing of the trains facing our windows. I should imagine our distinguished Mayor has too. He's even closer. It is a matter here the City of Sacramento actually has, some weapon, some power over Western Pacific to deal with them. To bring them to the negotiating table. And that is an objective in itself. I think very worthy of this Council. We are talking about improving our lives and our environment.
- Isenberg Doug, let me just. Remember when all the trains were running off the tracks. You remember that and also banging into houses. As a practical matter what finally came out is that there were some of the younger engineers were hot rodding the trains, as they call it. And you know you don't have that. We don't have any ability with public utility regulated by Interstate Commerce Commission to really get involved in quite as meaningful a way as with anyone else. And it was primarily public embarrassment that forced them to crack the whip on some of their employees. And it is probably only public embarrassment and the threat, perhaps, of a few more meaningful measures being taken that will cause them to do some reasonable steps that ought not to cause a great...
- Roberts You ought to be waiting in line on 19th Street to get through when they stop to get a sandwich.
- Pope I have no objection whatsoever...to perhaps be a little more peaceful

Pope (cont.) in...over there. But I don't want to be any part of any activity or any effort to say Western Pacific get that yard out of there. And I just want to make sure that's absolutely clear.

Isenberg That's not part of the motion. All right discussion. Call the roll.

AYES: Unanimous

ABSENT: Robie