

MINUTES

LAW AND LEGISLATION COMMITTEE MEETING

RECEIVED
CITY OF SACRAMENTO
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Thursday, February 11, 1988

City Council Chambers
915 I Street, Second Floor
Sacramento, California

The meeting was called to order at the hour of 4:05 p.m. by Chairman Terry Kastanis.

PRESENT: Committee members Kastanis, Pope, Shore
ABSENT: Committee member Mueller
GUEST: Council member Lynn Robie

1. Ordinance adding Article V to Chapter 42 of the Sacramento City Code, relating to food vending vehicles.

RECOMMENDATION OF STAFF: RECOMMEND SUPPORT AND FORWARD TO COUNCIL

REPORTS BACK: NONE

COMMITTEE ACTION: SUPPORTED AND FORWARDED TO COUNCIL

VOTING RECORD: MOVED: POPE; SECONDED: SHORE
AYES: KASTANIS, POPE, SHORE
ABSENT: MUELLER

MINUTES:

Diane Balter, Deputy City Attorney, was present to discuss this item. She noted that there are two exceptions: deliveries to business establishments during daytime business hours, and home delivery of milk products. Committee member Pope asked Attorney Balter about whether canteen wagons delivering food to a telethon at 2:00 a.m. would have to be covered under this ordinance. There was some discussion about this and other similar situations, and it was felt that this situation might warrant such regulation.

Council member Robie stated that this ordinance provides for liability insurance, provides for Health Department inspection, regulates storage in neighborhoods, assures that the vendors have a valid driver's license, and provides for a police report, none of which are unreasonable. Also, the cost is minimal.

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COMMITTEE ACTION SHEET

1. CONTINUED FROM PREVIOUS PAGE:

Jack Hershburger, an ice cream vendor, spoke in favor of the proposed ordinance. He stated he has 11 trucks, and that he has witnessed the sale, from other vending vehicles, of drugs and guns. He also stated that he was against the \$100 fine for a first offense, and that he would like to see it raised to \$1,000, since most of these dealers can earn \$100 in an hour so it's no big deal. There was some discussion regarding fines. Attorney Balter stated that fines for infractions are regulated by the Government Code, and she didn't think we could increase these amounts (\$100.00, \$200.00 and \$500.00). She stated that a vendor could lose his/her license for infractions, and that would be more important than the amount of any fine. Committee member Shore suggested that Mr. Hershburger write a letter to the Municipal Court stating his concerns about the low fine and letting them know this is a serious item.

Committee member Pope moved, Committee member Shore seconded, and it was unanimously agreed to support the ordinance adding Article V to Chapter 42 of the Sacramento City Code relating to food vending vehicles. This matter will be forwarded to full Council.

It was requested by Committee member Shore that Item 3 be discussed at this time, as he had to leave the meeting early due to another commitment.

3. Discussion of matters for the June 1988 election.

RECOMMENDATION OF STAFF:	FORWARD	RECOMMENDATIONS	TO
	COUNCIL		
REPORTS BACK:	NONE		
COMMITTEE ACTIONS:	RECOMMENDATIONS TO BE FORWARDED		TO COUNCIL

This matter is a continuation of the discussion from last week's Law and Legislation Committee meeting.

MINUTES:

(1) Council pay: Committee member Pope moved, Committee member Shore seconded, and it was unanimously agreed to recommend putting this matter on the June 1988 ballot.

ITEM CONTINUED TO NEXT PAGE

COMMITTEE ACTION SHEET

3. CONTINUED FROM PREVIOUS PAGE:

(2) Changing Council election dates to even-numbered years: There was considerable discussion as to this matter. City Attorney Jim Jackson stated that this assumes there will be an increase in voter participation, as well as save money for the City. Chairman Kastanis suggested this take effect in 1992-1993 so the Council won't be criticized for "giving ourselves more time". Committee member Pope stated that he likes things the way they are now, as he feels the larger turnout takes the focus off the City and that local issues are important but overlooked otherwise. Committee member Shore disagreed, saying he was not convinced people have more focus in September, with a 20% turnout compared to 60%. Committee member Shore moved, Chairman Kastanis seconded, and Pope voted against changing the election dates. It was decided to let the full Council decide whether this item should be on the June or November ballot.

(3) Appointment to office in lieu of election: Committee member Pope felt this item jeopardized the possibility of a write-in. Attorney Jackson stated that this prevents late write-ins. There was some discussion. Committee member Shore pointed out that if the matter of changing Council election dates passes, this won't even be needed.

(4) Vacancies in office: Chairman Kastanis asked Attorney Jackson what the chances were of this ever becoming a problem. Attorney Jackson stated there was very little chance. Anne Mason, Assistant City Clerk, explained that this merely makes the language consistent with the language in the Charter involving Council members elected at regular elections.

Chairman Kastanis suggested at this time that, regarding items 3 and 4, the Council be presented with a full report and no particular recommendation, but elaborate on them.

City Attorney Jackson also brought up the Charter amendment to raise the level of contracts which would not have to be put out to bid from \$5,000 to \$25,000 and the purchases and supplies from \$10,000 to \$25,000. This may be brought to the full Council for a decision if the staff decides to propose this amendment.

*Council member Shore left at 4:35 p.m.

COMMITTEE ACTION SHEET

2. Ordinance amending Chapter 16 of the Sacramento City Code relating to underground storage of hazardous substances.

RECOMMENDATION OF STAFF: RECOMMEND SUPPORT AND FORWARD TO COUNCIL

REPORTS BACK: NONE

COMMITTEE ACTION: SUPPORTED AND FORWARDED TO COUNCIL

VOTING RECORD: MOVED: POPE; SECONDED: KASTANIS
ABSENT: MUELLER, SHORE

MINUTES:

Dennis Smith of the Fire Department was present to discuss this matter. He passed out a staff report from the Fire Department (copy attached). There was some discussion regarding repairs, compared to preventive maintenance, as relates to lining of tanks. It was noted that this ordinance does not allow for repairs of tanks in the City of Sacramento, nor have repairs been allowed for at least the past 16 years, and that cutting and patching is considered repairing. It was noted that as long as a tank has a manway, the tank can be lined to prevent corrosion. A tank cannot be cut and then lined. It was noted that the County has adopted an ordinance exactly as the one now presented before this Committee, which will become effective in the County on March 3, 1988.

Dan Chadbourne, who represents a company that does underground tank lining, spoke before the Committee. Mr. Chadbourne felt that this proposed ordinance created a problem for businesses such as his, since 99% of the tanks in Sacramento don't have manways, which will eliminate him from the business. He explained how his company repairs underground tanks, how they stop corrosion, and how they guarantee such repairs for 20 years. He passed out copies of the California Health and Safety Code, and stated that the City will not be in conformance with State law if this ordinance should pass. Deputy City Attorney Tamara Milligan-Harmon explained that Health and Safety Code §25299.1 states that we are exempt from those provisions, since our laws were enacted prior to January 1, 1984. She also pointed out that the Code section states "may be", so the City is not prohibited from being more stringent. She also said that the County is also protected by this exemption. Mr. Chadbourn stated that his only recourse may be to litigate. Chairman Kastanis stated that he does have the option of litigation, but the City is taking a step in the right direction for precautionary measures.

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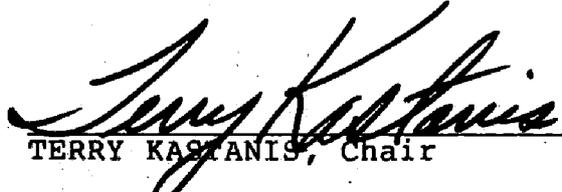
COMMITTEE ACTION SHEET

2. CONTINUED FROM PREVIOUS PAGE:

Committee member Pope moved, Chairman Kastanis seconded, and it was unanimously agreed to support this ordinance and forward it to full Council. Attorney Milligan-Harmon stated that this matter was already scheduled for the February 16, 1988 Council.

The meeting was adjourned at 4:55 p.m.

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TERRY KASTANIS, Chair

ATTEST:


JUDY WARVEL, Secretary



DEPARTMENT OF
FIRE

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
SUITE 401
SACRAMENTO, CA
95814-2979

916-449-5266

RAY CHARLES
FIRE CHIEF

February 10, 1988

Law and Legislative Committee
Sacramento, California

Honorable Members in Session:

**SUBJECT: Ordinance Amending Chapter 16 of the
City Code Relating to Underground Storage
of Hazardous Substances**

As requested, the Sacramento Fire Department has conducted research to determine what fire agencies in California are accepting the interior lining process for underground tanks. We have made contact with all 32 fire jurisdictions in California which had an underground tank ordinance before 1984. The purpose for surveying jurisdictions that had ordinances before 1984 is that state law does not pre-empt their ordinance. Also we are similarly situated.

Of the 32 jurisdictions contacted we received 27 responses i.e., we actually spoke with someone within the department knowledgeable on the subject. Of the 27 responses, ten fire agencies allow the process to be done with varying levels of control. Nine stated that they would not allow the process to be done. Two fire agencies stated that they would discourage it. Three fire agencies stated that they would allow the process, but would not allow the tank to be cut open in order to perform the procedure. Two fire agencies were unsure as to what policy they would adopt.

As with all statistical data the raw numbers do not show the complete picture. Many jurisdictions accept the process because they feel they are legally obligated to do so. The tank lining industry argues that California government code section 53075 requires the Sacramento Fire Department to issue a permit to do the lining process. The City Attorney's opinion is that this code section would prevent us from discriminating against the interior lining process ONLY if we allowed tanks to be repaired. Since the current fire code does not allow repairs, and the proposed ordinance would not allow repairs we are not affected by

this section. The Sacramento Fire Department interprets the cutting of a hole in the tank to gain access, and the patching of that hole as a repair.

Many fire agencies simply don't have the legal assistance readily available, or are reluctant to take on a possible legal battle; they are allowing the process with some reservations. For many jurisdictions that have allowed the process it was a first time experience or done on a trial basis only. Some agencies stated that after further consideration they would not allow it again.

We contacted two major oil companies, Shell & Chevron. In both cases we were told that the interior lining process is rarely if ever used. It was the opinion of representatives from both companies that they would never use an interior lining process as a long term solution to tank corrosion. The goal of both companies is to replace all of their single wall tanks with double walled.

The following is summary of reasons the Sacramento Fire Department is opposed to allowing underground tanks to be cut open to perform the interior lining process.

1. The Fire Code does not allow tanks to be repaired.

As stated above, we interpret the cutting and patching of a tank as a repair.

2. Concern about tanks being cut open in a populated area.

Throughout the state and the country numerous explosions have occurred as a result of tanks being cut. Many have caused serious injury or death.

3. The interior lining process is not U.L. approved. Everything associated with the tank is required to be U.L. approved. There is currently no U.L. listing for the product used to line the tank or the process itself.

4. No independent standards for cutting into or applying an interior coating currently exist.

The Western Fire Chiefs Association (the organization

that promulgates our fire code) has heard the issue in its last three code committee meetings. The result has been that standards for the interior lining process have not been adopted; indicating that the fire service is not yet prepared to accept the process.

Even with all the above factors considered, the Sacramento Fire Department is not completely against the interior lining process. Although we express no opinion as to how successful it may be, we are willing to accept it in circumstances where it is done for preventative maintenance only, and the tank has an entry port. The Sacramento Fire Department views this simply as a public safety issue. We recommend adoption of the ordinance in its present state.

Respectfully Submitted,



RAY CHARLES
FIRE CHIEF

RC/kmn

**DATA MATRIX ON THE POLICIES OF CALIFORNIA FIRE AGENCIES
REGARDING THE INTERIOR LINING PROCESS**

	<u>ALLOW</u>	<u>DISALLOW</u>	<u>ALLOW / NO CUTTING</u>	<u>DISCOURAGE</u>	<u>NO POLICY</u>
Belmont / San Carlos F.D.		X			
Campbell F.D.					X
Chico F.D.	X				
Fremont F.D.	X				
Hayward F.D.	X				
L.A. City F.D.		X			
L.A. County F.D.				X	
Long Beach F.D.	X				
Los Batos F.D.		X			
Milpitas F.D.		X			
Monterey F.D.		X			
Morgan Hill F.D.	X				
Mountain View F.D.			X		
Oakland F.D.					X
Palo Alto F.D.			X		
Sacramento		X			
San Diego F.D.	X				
San Jose F.D.	X				
San Leandro F.D.		X			
San Luis Obispo F.D.		X			
Santa Ana F.D.		X			

	<u>ALLOW</u>	<u>DISALLOW</u>	<u>ALLOW / NO CUTTING</u>	<u>DISCOURAGE</u>	<u>NO POLICY</u>
Santa Clara F.D.	X				
Scotts Valley F.D.				X	
Seaside F.D.			X		
Sunnyvale F.D.		X			
Union City F.D.	X				
Watsonville F.D.	X				