

COUNCIL COMMITTEE MINUTES

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COMMITTEE NAME: LAW AND LEGISLATION
MEETING DATE: May 6, 1997
MEETING TIME: 12:30 P.M.
LOCATION: 915 I Street, 2nd Floor, Council Chambers

The meeting was called to order at 12:40 P.M. by Darrell Steinberg, Acting Chairperson.

ROLL CALL

Present: Committee Members Steinberg, Waters, (Acting Chair) Fargo
Absent: None

- 1.0 CONSENT CALENDAR
- 2.0 STAFF REPORTS
- 2.1 **Contract for Legislative Advocacy Services with Kenneth Emanuels and Associates**

Recommendation of Staff: Approve Staff Recommendation and Forward to City Council

Committee Action: Approve Staff Recommendation

Betty Masuoka, Deputy City Manager, two-part item. First part is the contract recommendation for Legislative Advocacy services and then an update from our current advocate. The contract is a \$50,000 contract w/one year renewal. Went through intensive process. Awarded the contract to Kenneth Emanuels. Request that Committee forward on to full City Council for adoption.

A motion was made by Committee Member Steinberg, seconded by Committee Member Waters to approve staff recommendation. All in favor.

Ken Emanuels, gave an overview of current legislation. Handout (attached) was provided with status of various bills.

- 2.2. **An Ordinance amending Chapter 38.03 of the Sacramento City Code, relating to Excavation Requirements and Payment of Trench Cut Cost Recovery Fees.**

Recommendation of Staff:

Approve Staff Recommendation and Forward to City Council

Committee Action:

Have staff meet with utility representatives to come up with a common methodology and bring back to the Law and Legislation Committee

Mike Kashiwagi, Director of Public Works, report recommends that the Committee forward to Council the recommendation to adopt an ordinance amending to allow charging utilities a fair share recovery of costs to mitigate damages that result from the trenching and cutting of City streets. The purpose is to promote improved coordination and planning of necessary street trenching to minimize damage and disruption to our street system and where unavoidable requires utilities to take financial responsibility for the damage they do to the streets. Trenching even when properly restored does damage and shorten the life of streets. Increased rate of decay results from trench cuts. This increases the cost and frequency of required maintenance to city streets. Previous studies have been done in other cities that prove that trenching does damage streets and shorten their lives. Studies done on streets in Sacramento were also done that came to the same conclusion and were used as a basis for determining the trench excavation fees.

Alen Kersh, CHEC Engineering, explained the technical aspects of their study. Their task was to see if City of Sacramento streets are affected by trench cuts. If there was damage, we needed to quantify that. The methodology was to use a nondestructive testing procedure which relates to pavement deflections. Handout (attached) shows the analysis of their study. The study found signs of influences of loss of pavement strength - not only on trenches, but 2-4 feet from trench.

Committee Member Steinberg, asked if the utility companies had a problem philosophically having to pay for damage or whether there is a dispute on methodology. Mr. Kashiwagi said that all companies are willing to take responsibility, the disagreement is whether or not trenching in the street does damage beyond the trench. It comes down to the question of science. Committee Member Steinberg also had a question regarding franchise fees. The utility companies paying a franchise fee - does that affect the fee they would be required to pay under this ordinance. City Attorney Robinson, stated that in the City's point of view, the franchise fee is a fee to use streets whereas the trench cut fees are to cover cost of damage to streets.

Committee Member Waters, asked if there was anything in the study that would say who's doing what and when, some type of coordination. Mr. Kashiwagi said that as part of the requirements of this ordinance is that all utility companies are to provide a master plan. Purpose of that is to get all utilities to prepare these master plans so they all can share.

Committee Member Fargo, said that her concern is lack of coordination. We have to have method of timing for construction. There needs to be someone to negotiate timing. Bob Lee, said that Public Works and Utilities is working on such a plan.

Lori Ortenstone, Pacific Bell, Pacific Bell's legal position is to oppose ordinance. Feels

the City cannot quantify the actual damages. The study did not consider any Pacific Bell trenches. Pacific Bell does not feel that the trenches they have done has caused any damage.

Michael Olsen, AT&T, Opposes Ordinance. Supports efforts of the City. Does not feel the fee proposal will fix the streets, just raise utility rates.

Leo Fassler, SMUD, Opposes Ordinance. SMUD's concern is the fee portion of this ordinance. There has never been any sign in the past that showed that SMUD did bad trenches, not sure that this study is conclusive. If this ordinance passes, the district will have to take a different position about working with the City.

Steve Kroes, California Taxpayer's Association, Opposes Ordinance. City staff is asking Council to go into unchartered legal territory. Doesn't feel it's a legitimate fee - fees are required to be related to the regulation of the fee payer, benefit provided to the fee payer, or directly to mitigation to the damage caused by the fee payer.

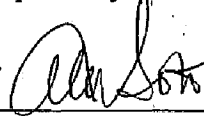
Josh Pane, PG&E, feels coordination is absolutely necessary. Feels like there should be more room in the ordinance if companies would guarantee to coordinate. Feels like companies need more time to work with City staff to evaluate and to bring back studies for City staff review. Asked that Committee look at this a little longer.

Councilmember Steinberg, would like to to see an agreed upon methodology between the City and the utilities.

A motion was made by Committee Member Steinberg, seconded by Committee Member Waters to have the City get together with the utility representatives to come up with a common methodology and bring back to the Law and Legislation Committee. All in favor.

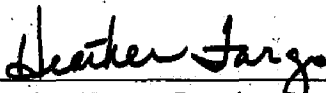
ADJOURNED - There being no further business to come before the Law & Legislation Committee, the meeting was adjourned at the hour of 2:00p.m.,

Respectfully submitted,



Aline Soto, Committee Secretary

APPROVED:



Heather Fargo, Interim Committee Chair
