



# CITY OF SACRAMENTO

## DEPARTMENT OF PUBLIC WORKS

### ENGINEERING

December 10, 1984

City Council  
Sacramento, California

CITY MANAGER'S OFFICE  
**RECEIVED**  
DEC 12 1984

Administration, Rm. 300	(916) 449-5307
Architecture, Rm. 302	(916) 449-5307
Civil Engineering, Rm. 207	(916) 449-5281
Construction, Rm. 207	(916) 449-5281
Electrical Engineering, Rm. 304	(916) 449-5287
Real Estate, Rm. 300	(916) 449-5307
Traffic Engineering, Rm. 300	(916) 449-5307

Honorable Members In Session:

SUBJECT: Morrison Creek Assessment District, Improvement Proceeding No. 5068

### SUMMARY

Adoption of the necessary Resolutions for the formation of the Morrison Creek Assessment District which will provide the necessary water mains, storm and sanitary sewers for the development of the property within the District. Adoption of the Resolutions is recommended.

### BACKGROUND INFORMATION

Over 50% of the property owners within the district have requested that storm and sanitary sewers, together with a water distribution system, be installed in the proposed assessment district. The installation of these utilities will enable the City to do the necessary widening of Florin-Perkins Road and enable the property owners to develop their property for industrial use.

### FINANCIAL DATA

The project is estimated to cost \$9,175,193.16 and is to be financed by the property owners within the District with the County contributing \$719,000.00 for trunk sanitary sewers. The total cost of the project is as follows:

Estimated Contract Cost	\$5,718,120.00
R.R. Bridge Reconstruction Cost	168,695.00
Contingency	600,000.00
Right of Way Cost	30,655.53
Incidental Expenses	2,657,722.63
Estimated Total Project Cost	\$9,175,193.16
Less Estimated Interest Earnings	- 100,000.00
Less County Contribution	- 719,080.00
	<u>\$8,356,113.16</u>

**APPROVED**  
BY THE CITY COUNCIL

DEC 18 1984

OFFICE OF THE  
CITY CLERK

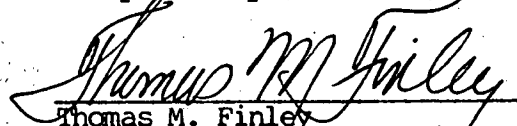
There are no City funds involved in this project.

RECOMMENDATION


It is recommended that the attached Resolutions and Report be adopted and filed in the order listed below:

1. Resolution Appointing Engineer and Attorney
2. Resolution of Preliminary Determination and of Intention
3. File Engineer's Report
4. Resolution of Preliminary Approval of Engineer's Report
5. Resolution Appointing Time and Place of Hearing Protests, Etc., setting a Hearing for February 12, 1985.
6. Resolution Calling for Sealed Proposals and Fixing Liquidated Damages, Etc., calling for bids to be received on January 29, 1985.
7. Resolution Describing Proposed Boundaries of Assessment District, Etc.
8. Resolution Establishing Just Compensation and Authorizing Expenditure of Funds, Etc.

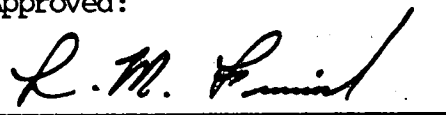
Respectfully submitted,

  
Thomas M. Finley  
Engineering Division Manager

Recommendation Approved:

  
Walter J. Slape, City Manager

Approved:

  
For MELVIN H. JOHNSON  
Director of Public Works

TMF:bb  
Attachments

December 18, 1984  
DISTRICT NO. 6



# CITY OF SACRAMENTO

31

## DEPARTMENT OF LAW

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SUITE 201

SACRAMENTO CA 95814  
TELEPHONE (916) 449-5346

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City Attorney  
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Assistant City Attorney  
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LAWRENCE M. LUNARDINI  
DIANE B. BALTER  
RICHARD F. ANTOINE  
Deputy City Attorneys

December 6, 1984

CITY MANAGER'S OFFICE  
**RECEIVED**  
DEC 12 1984

City Council  
City Hall  
Sacramento, CA 95814

Re: Amendment of Brown Act effective  
January 1, 1985

Dear Council Members:

### SUMMARY

Two amendments to the Brown Act take effect January 1, 1985. One permits executive sessions to discuss real estate negotiations. The second affects executive sessions to discuss legal matters.

### BACKGROUND

Chapter 1126 of the 1984 laws (SB 2216) will take effect on January 1, 1985. It specifically allows executive sessions for real estate discussions and modifies the current non-statutory exception for executive sessions on attorney-client privileged matter.

The real estate exception permits a local legislative body to meet in closed session with its negotiator for purposes of giving instructions regarding the price and terms of payment for the purchase, sale, exchange or lease of property by or for the local agency. Prior to any such closed session, the Council must identify, at a public meeting, the properties involved and the persons with whom it may negotiate.

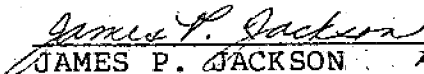
The second amendment limits a local legislative body's ability to meet in closed session to confer with its legal counsel regarding litigation. Prior to this amendment, a closed session was authorized to discuss any matter which would fall within the attorney-client privilege set forth in the California Evidence Code. This could include discussion on litigation and non-litigation matters. Effective January 1, however, the Brown Act exception will be more limited than the attorney-client privilege. Closed sessions will be permitted only to discuss:

December 6, 1984

- (1) Pending litigation;
- (2) situations in which there is a "significant exposure" to litigation against the City, based upon existing facts and circumstances; and
- (3) to discuss whether the City should initiate litigation against another party.

Prior to holding such a closed session, the Council must indicate, in public, the category in which the matter falls. Where litigation is pending, the Council must identify the specific litigation to be discussed, unless the Council states that to do so would jeopardize the City's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

The City Attorney must also prepare and submit to the Council a memorandum stating the specific reasons and legal authority for the closed session. If the session is to discuss litigation exposure or proposed litigation, the memorandum must include specific facts and circumstances. The memorandum shall be submitted prior to the closed session if feasible, and in any case no later than one week after the closed session. The memorandum will be confidential and exempt from disclosure under the Public Records Act until the litigation has been finally adjudicated or otherwise settled.

  
JAMES P. JACKSON *mb*  
City Attorney

JPJ:mb

Attachment

cc: Walt Slipe

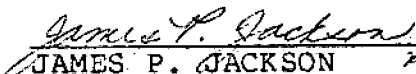
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\_\_\_\_\_  
JAMES P. JACKSON *rlb*  
City Attorney

JPJ:mb

Attachment

cc: Walt Slipe

Senate Bill No. 2216

CHAPTER 1126

An act to add Sections 6254.1, 54956.8, and 54956.9 to the Government Code, relating to local government.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2216; Keene. Local legislative bodies: meetings.

Existing law requires, with certain exceptions authorizing meetings in executive session, that the meetings of local legislative bodies be open and public.

Existing law also provides that, with specified exceptions, materials in the possession of governmental entities are public records subject to disclosure.

This bill would permit the legislative body of a local agency to meet in closed session with its negotiator for purposes of giving instructions regarding the price and terms of payment for the purchase, sale, exchange, or lease of property by or for the local agency, under specified conditions.

The bill would also permit the legislative body of a local agency to meet in closed session to confer with its legal counsel regarding pending litigation, under specified conditions. The bill would require the legal counsel of the legislative body of the local agency to prepare and submit to the body a memorandum stating the specific reasons and legal authority for the closed session which would not be a public record subject to disclosure until the pending litigation has been finally adjudicated or otherwise settled.

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

SECTION 1. Section 6254.1 is added to the Government Code, to read:

6254.1. Nothing in this chapter or other provision of law shall be construed to require the disclosure of a memorandum submitted to the legislative body of a local agency by its legal counsel pursuant to Section 54956.9 until the pending litigation has been finally adjudicated or otherwise settled. The memorandum shall be protected by the attorney work-product privilege until the pending litigation has been finally adjudicated or otherwise settled.

SEC. 2. Section 54956.8 is added to the Government Code, to read:

54956.8. Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real

property by or for the local agency to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

For the purpose of this section, the negotiator may be a member of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

SEC. 3. Section 54956.9 is added to the Government Code, to read:

54956.9. Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the local agency is a party, has been initiated formally.

(b) (1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency; or

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state publicly to which subdivision it is pursuant. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

The legal counsel of the legislative body of the local agency shall prepare and submit to the body a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to subdivision (a), the memorandum shall include the title of the litigation. If the closed session is pursuant to subdivision (b) or (c), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the body prior to the closed session if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.1.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

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