

MINUTES
OF THE
JOINT LAW AND LEGISLATION COMMITTEE
AND
NEIGHBORHOOD AND PUBLIC SAFETY ISSUES COMMITTEE

Thursday, August 5, 1993

CALL TO ORDER

The Joint Meeting of the Law and Legislation and Neighborhood and Public Safety Issues Committees was called to order by Chairperson Fargo at 6:40 p.m. on the above date in the City Council Chamber located at 915 I Street.

ROLL CALL

Present: Councilmembers Kerth, Ortiz, Pane, Pannell, Steinberg, Fargo

1. Neighborhood Improvement Program (D-All)
 - A. Ordinance Adding Chapter 16 to Title 61 of the Sacramento City Code, Relating to Abatement of Neighborhood Nuisances
 - B. Ordinance Adding Section 61.16.1627 to the Sacramento City Code Relating to the Imposition of a Neighborhood Conservation Fee on Owners of Residential Rental Property in the Amount of Ten Dollars (\$10.00) Per Unit Per Year for Three Years

Councilman Steinberg explained the background for these ordinances. The Mayor and City Council have focused on some of the low income neighborhoods in Sacramento and found that while the City has the ability through its ordinances to deal with physically dilapidated and dangerous substandard buildings, it has nothing in its ordinances that holds property owners responsible for maintaining their properties so that their properties do not become a nuisance with antisocial, criminal behavior. In March, the Mayor commissioned a legal advisory task force with representatives from the Sacramento Association of Realtors, Sacramento Valley Apartment Owners Association, Legal

Services of Northern California, McGeorge School of Law, attorneys representing both the business community and tenants, and neighborhood activists. The second ordinance is the fee ordinance. The Planning Division and Dangerous and Substandard Buildings Division have a backlog of 900 cases and need to raise revenue. The ordinance calls for a fee of \$10.00 per unit per year on rental properties throughout the City for a limit of three years.

David Martinez, Deputy City Manager, introduced Deputy City Attorney Diane Balter to go through the proposed ordinances and answer questions.

Diane Balter, Deputy City Attorney, explained the two ordinances and suggested the following additions: (1) Provision that requires a hearing for the tenant before the Director to be held no later than the second business day after the request for a hearing. If the Director agrees with the tenant, that they were wrongly alleged to be a nuisance, the Director may be required to inform the owner by the end of the second business day after that decision is made. (2) There is to be no citation and order if the owner is making a good faith effort to abate the conditions. (3) City staff has to contact the owner first and attempt a voluntary abatement. (4) Provisions prohibiting retaliation against tenants because the City is taking action under this code.

Councilman Kerth suggested a draft provision which would allow proceedings to go ahead even if actual notice is not given to property owner.

Councilman Pane asked for an analysis of the available judicial remedies and other civil remedies, including Small Claims Court, Health and Safety Code Section 11570. He would like to know how many and which cases the City Attorney has pursued under Section 11570.

Councilwoman Fargo asked if the fee could be added to the County property tax bill.

Dianne Guzman said she will investigate that.

The councilmembers discussed the pros and cons of applying the \$10.00 fee to all city residents, not just rental properties. This could result in a lower cost to everyone.

Arturo Venegas, Chief of Police, stated this ordinance will be a very helpful tool for the Police Department. He recommended a change in Section 61.16.1608 from "illegal sale of controlled substance" to "illegal sale of drugs."

There was discussion about using some of the funding for a half-time housing mediator and alternative dispute resolution being a very serious element. They talked about the Chief of Police encouraging reports of violations.

The following members of the audience spoke in support of the Neighborhood Improvement Program ordinances: Kathryn Tobias, Chuck Nicol, Kathleen Friedrich, James Reede, Luigi Naldi, Hans Huber, Danny Nunn, Alicia Wenbourne, Noni Palmer, Michael Ping, Greta Cannon, Marguaret Peterson, Walter Mueller, and Kenneth Wilcox.

The following members of the audience spoke against approving the Neighborhood Improvement Program ordinances: Betty Gwiazdon, Barrie Roberts, Gary Link, Darryl Martin, Bruce Booher, Kierce McGill, Barbara Frick, Richard Saulque, and Bruce Hester.

Kathryn Tobias, attorney, member of the task force, and President of the County Bar of Real Property Section, suggested the committee consider putting the emphasis on mediation as opposed to legal action. She also suggested keeping the fee just for landlords for three years and then move to the penalties and have the program support itself.

Chuck Nicol, Vice President of Tahoe Neighborhood Association, said the Board of Directors met on Tuesday and unanimously approved a motion that supported the ordinances. He asked about one additional provision related to notifying the City of problems. He said in lieu of the City receiving notification from six individuals in separate households that there can be some mechanism for a neighborhood association to act on behalf of residents. This would be in instances where the residents may be justifiably afraid of coming forward publicly.

Councilman Steinberg suggested the following language be added, "The City encourages neighborhood associations, residents, and businesses to report to the Director violations of this chapter." Then go on to say, "The Director will investigate, and based upon that investigation, may issue a citation," in lieu of six people signing declarations.

Councilmembers Pane, Pannell, and Ortiz talked about their concerns with the change in the language. Councilmember Fargo agreed with the language change.

Councilman Steinberg explained the intent of the language change was that the discretion would be with the Director of Neighborhood Services to issue a citation. No resident or neighborhood association would have the ability to do that. Encourage individuals and groups to express a problem they perceive with the Director. He said that if there are problems as the ordinance is executed in the field, we can make adjustments. He said there will be no enforcement against an owner who is managing in good faith.

Gary Link, attorney, said the ordinance as drafted is constitutionally invalid, it lacks tightness in terms of noise provision being vague and the system being more adversarial. He asked which tenant is protected by non-retaliation provisions. He suggested there not be a requirement of notice to all tenants, the tenants will think they don't have to pay rent.

Councilwoman Ortiz stated that nothing in this ordinance shall be applied to inhibit exercise of First Amendment rights. It needs to be more specific about the noise.

There was discussion regarding the definition of "substantial undue economic hardship" for waiver of penalties and "good cause" for continuance of hearing. Also, question asked why the penalties are to be imposed on owners when the owners are not the criminals. The alternative judicial remedies in the ordinance do not promote mediation and unnecessarily broadens the ordinance.

Councilman Kerth said the fees should be applied to all properties including commercial properties. He added the costs should be spread out over all beneficiaries; deleting the notice to the other tenants may be a good idea.

Councilman Pane suggested they eliminate the provision regarding retaliatory eviction. He also suggested eliminating the fee and do a small pilot program first with existing resources. He said they could use the Health and Safety Code 11570.

Councilman Pannell said the fee should apply to everyone; they should not single out one group.

The committee asked staff to incorporate suggestions from this meeting and return to this committee either the 25th or 26th; notify interested parties.

2. Proposed Fire Department Master Plan (D-All)

Continued to a later date.

3. 14th Street Tunnel Closure Status (D-1)

Continued to a later date.

4. Results of Strike Force Operation (D-8)

David Martinez, Deputy City Manager, introduced Mike Hanamura, Manager, Neighborhood Improvement Division, to give an oral report on the Strike Force.

Mike Hanamura gave a status report back on the Strike Force activities, a Code Enforcement effort to take care of the backlog of complaint cases in District 8. The activities of the Strike Force resulted in issuing over 400 notices of violations on private property and over 372 notices on public streets. As a result of that activity, there were a total of 140 vehicles actually towed from the streets; another 240 vehicles abated voluntarily by the property owners. It was a successful effort. They will report back to the City Council in about a month with a full report indicating the impacts, the costs of completing the project.

Councilman Pannell said from the Council person's position, this strike force has been successful in District 8 and hopes it can be done in other districts. He said staff did an outstanding job.

Bill Snyder thanked everybody involved in putting this together. He added he would like to see a commitment from Neighborhood Services regarding tractor trailers being parked in residential areas.

ADJOURNMENT - There being no further business to come before the Committee, the meeting was adjourned at 10:20 p.m.

Submitted:


Jan Mirrione, Secretary

Approved:


Heather Fargo, Chairperson