

LAW AND LEGISLATION COMMITTEE AGENDA

November 16, 2004
12:30 P.M.

City Council Chamber
730 I Street
Sacramento, California

ROLL CALL

1.0 CONSENT CALENDAR

ALL ITEMS LISTED ON THE CONSENT CALENDAR ARE CONSIDERED AND ACTED UPON BY ONE MOTION. A MEMBER OF THE COMMITTEE OR STAFF MAY REQUEST AN ITEM TO BE REMOVED FOR SEPARATE CONSIDERATION.

1.1 Pending Legislation Log

RECOMMENDATION OF STAFF: Approve Log

2.0 STAFF REPORTS

2.1 Legislative Update

RECOMMENDATION OF STAFF: Committee Information

2.2 Amendment to Code Prohibiting the Consumption of Alcoholic Beverages in Public Places

RECOMMENDATION OF STAFF: Direction to staff

3.0 CITIZENS ADDRESSING COMMITTEE (MATTERS NOT ON AGENDA)

(A two minute time limit is imposed on speakers addressing the Committee under this heading)

4.0 COMMITTEE IDEAS AND QUESTIONS

COMMITTEE MEMBERS: Cohn (Chair), Sheedy, Waters, Pannell

Notice is hereby given that the Sacramento City Council will conduct concurrent meetings with the Council Committee(s) listed on this agenda which is incorporated herein by reference. The Special Meeting(s) are called to permit members who are not on the listed committees to attend the meetings and participate in the discussion. In the event five (5) or more members of the City Council are present at a committee meeting, only those items listed on the agenda can be acted upon or discussed.

All meetings will be held at the date, time and place indicated; and the subjects to be considered and acted upon shall be those as listed on the agenda. The numbered items listed on the agenda are a brief description of business to be transacted or discussed; the recommendations of the staff as shown, do not prevent the committees from taking other action.

LAW AND LEGISLATION COMMITTEE
Preliminary Calendar
As of November 9, 2004

DISCLAIMER: The following information is tentative as to dates and subjects.

Tuesday, November 16, 2004

Amend Ordinance to Prohibit Open Alcoholic Beverage Containers – **POLICE**

Tuesday, December 7, 2004

2004 Legislative Report Card – **LEGISLATIVE AFFAIRS**

Update to Code related to Provision of Sewer Services – **UTILITIES**

Changes in Hours of Service for Non-Residential Solid Waste Services – **GENERAL SVCS**

Ordinance Amending Code Relating to Temporary Construction Zones - **TRANSPORTATION**

Thursday, January 6, 2005

Nothing scheduled at this time.

PENDING ORDINANCES/REPORTS:

Mobil Food Vendor Ordinance - **Finance/Development Svcs**

Amend Title 10 Regarding Taxi Zones - **Finance**

New Code Enforcement Initiatives - **NSD/Code Enforcement**

Social Services - **Planning**

Parking of Trailers, Auto Coaches, etc. in Residential/Industrial Areas - **Off-Street Parking**

Report Back on Number of Debarment Proceedings - **General Svcs**

Report Back on Contract Standards - **General Svcs**

Report Back on Representation of Neighborhood Associations - **Development Svcs/NSD**

Report Back on Segway - **Transportation**

Report on Administrative Penalties for Code Violations - **Code**

Amend Utility User Tax Ordinance - **Finance**

Ordinance Relating to Parks & Recreation Facilities Use - **Parks & Recreation**

Sierra 2 Nomination to Sacramento Register – **Development Svcs**

Contractual Conflict of Interest of City Employees - **Finance**

Emergency Authority on City Legislative Positions - **Finance**

Amend Zoning Code Relating to Enforcement - **NSD/Code**

Amendments to R Street SPD - **Development Svcs**

Illegal Dumping Vehicle Impound Ordinance – **NSD/Code**

Supersize Retail Stores Ordinance – **Development Svcs**

Old Sacramento Sign Ordinance – **CC&L**

Amendments to City Code Relative to Age Limitations at Tot Lots/Children's Parks – **Parks & Rec**

Municipal Legislation Log

revised		9-Nov-04		Status			City Departments Possibly Affected		
Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date ¹	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion ²				
NEW OR CHANGED ITEMS									
1	11.04.1	Amend Code Relating to Temporary Construction Zones	Transportation/Parking/Howard Chan	07-Dec-04	Unlikely	Moderate	Transportation		
SCHEDULED LAW & LEG ITEMS									
2	10.04.1	Changes in Solid Waste Hours of Operation	Solid Waste/Marty Strauss/Harold Duffy	7-Dec-04	Possibly	Moderate	General Services		
3	9.04.1	Amend Ordinance to Prohibit Open Beverage Container	CM Cohn/Police	16-Nov-04	Significant	Moderate	Police		
4	3.03.4	Update of Code Related to Sewer Services	Utilities/Dave Brent/Rick Batha	7-Dec-04	No	To Be Determined	Utilities		
LAW AND LEG COMMITTEE ORDINANCE & REPORTS - DATE PENDING									
5	1.11	Mobile Food Vendor Ordinance	CM Tretheway/Bill Spencer	Fall 2004	Potentially Yes	Moderate	Finance/Planning		
6	3.2	Amend to Title 10 re: Taxi Zones	Finance	Early 2005	Potentially Yes	Moderate	Public Works		
7	3.6	Social Services	Full Council/Planning/Art Gee	Pending	Yes	Significant	NSD/ Planning		

11

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² Limited =<10 hrs, Moderate =10-40 hrs, Sig. => 40 hrs

Municipal Legislation Log

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8	4.03.1	Report Back on Number of Debarment Proceedings	CM Sheedy/Jon Blank/Public Works	Spring 2004	Report on Designating Debarment Examiners heard and approved by L&L on 4/15/03. Committee asked for a report back in one year on the number and cost of debarment hearings.	No	None	Public Works
9	5.03.2	Report Back on Contract Standards	Public Works	Summer 2004	Law & Leg Committee heard a report on SB163 on 5/20/03. Report back requested on what contract standards the city currently uses, an evaluation of the proposed standards of SB163 and how they may help the city improve its standards and a recommendation from staff for other contracting standards we should apply in the City.	Potentially	To Be Determined	Public Works
10	6.03.2	Report Back on Representation of Neighborhood Associations	Planning/NSD	Pending	On June 3, 2003 the Law & Leg Committee requested a report back regarding the noticing process and reliance on Neighborhood Associations that do not always represent a majority of residence on an issue.	To Be Determined	To Be Determined	Planning/NSD
11	8.03.1	Amend Utility User Tax Ordinance	Finance/Walker Black	5-Apr	Amendment of the Utility User Tax Ordinance to update to reflect current procedures and provide clarification. Staff is completing research and working on analysis.	No	Moderate	Finance
12	9.03.1	Report Back on Segway	Public Works/Marty Hannaman	May-05	Report heard by Law & Leg Committee on 9/16/03. Staff to report back on what County and others are doing for enforcement and possibly expanding prohibition to Old Sacramento.	Potentially yes	Moderate	Public Works/Police
13	6.03.3	Administrative Penalties for Code Violations	Code/CM Jones/Max Fernandez	Jan-05	CM Jones requested a report to Law & Leg Committee that provides information on the next steps to move forward with mandatory minimums and a clear procedure for Administrative Penalties for code violations. Working with City Attorney's Office on legal issues.	Potentially Yes	Significant	Code

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14	12.03.1 Ordinance Amending Code Regarding Public Rec Facility Use	Parks & Rec/Greg Narramore	Pending	Clean up of existing language and adding City Code related to proper use of City owned public recreational facilities to prevent excessive wear, damage and deterioration and maintain the availability of city-owned public facilities for a variety of uses based on community need.	No	To be determined	Parks & Recreation
15	3.04.1 Sierra 2 Nomination to Historic Register	Planning	Pending	Ordinance relating to the designation of Sierra II Community Center as a landmark.	No	Moderate	Planning/ Historic Preservation
16	3.04.3 Contractual Conflict of Interest of City Employees	Finance	Pending	Amendment of code related to prohibition on city employees having a financial interest in a city contract.	No	Minimal	Citywide
17	3.04.4 Emergency Authority on City Legislative Positions	Finance	Pending	Report discussing emergency authority on city legislative positions in the event that the Mayor and Law & Legislation Chair are not available.	Some	None	All
18	7.04.2 Amendments to R Street SPD	Dev Svcs/Todd Leon	Pending	Amendments to R Street Special Planning District to Facilitate Development	To be Determined	To be Determined	Development Svcs
19	6.04.2 Zoning Code Ordinance re: Enforcement	NSD/Code	Pending	Amend ordinance to add additional penalties for violations of the Zoning Code	Possibly	Moderate	Development Svcs/Code
20	12.03.2 Supersize Retail Stores Ordinance	CM Sheedy/Gary Stonehouse	Pending	Heard by the Law and Leg Committee on September 7, 2004. Staff directed to draft an ordinance to enact zoning regulations that either prohibit or impose special permit requirements on new retail stores over a certain size.	Possibly	To be determined	Planning
21	9.04.2 Illegal Dumping Vehicle Impound Ordinance	CM Hammond/Code/Max Fernandez	Early 2005	Provide for seizure and impound for a specified time for vehicles involved in illegal dumping.	Significant	Moderate	Code
22	8.04.1 Old Sacramento Sign Ordinance	CC&L	Pending	The Ordinance will set forth sign regulations that will preserve and maintain the historic ambience of Old Sacramento, a registered national historic landmark.	Possibly	Moderate	CC&L/Code Enforcement/ Dev Svcs

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23	4.04.1 Solid Waste Facility Fee	CM Jones/ General Svcs/ Harold Duffly	Pending	Ordinance to mitigate potential impacts to a geographic area relative to locating a solid waste facility. The Law & Leg Committee heard a staff report on this issue on November 4, 2004 and directed staff to get input from an advisory committee and report back to the L&L Committee with recommendations on fees.	To be Determined	To be Determined	Solid Waste/ Planning
24	8.04.3 Amend Code Re: Limitation on Age at Tot Lots & Children's Parks	CM Sheedy/Bob Overstreet/ Parks & Rec	Pending	Amend City Code to set age limitations for use of city tot lots and children's parks.	Possibly	Moderate	Parks
ORDINANCES/REPORTS FORWARDED TO COUNCIL OR OTHER COMMITTEES							
25	12.03.4 Green Contracting Ordinance	CM Jones/Public Works	Pending	Law and Leg Committee approved the development of a draft policy and directed staff to report back with an update prior to November 23. The policy would include a plan to encourage city contractors to procure and to operate low-emission vehicles and to obtain low emission fleet status for their off-road equipment and heavy-duty on-road fleets. Staff is meeting with AQMD in early November to workout details.	Possibly	Moderate	Public Works
26	8.04.2 Illegal Street Race Spectator Ordinance	CM Waters/Police/ Finance	Pending	Ordinance to prohibit people from being knowingly present as spectators at illegal motor vehicle speed contests or exhibits of speed or where preparations are being made for such events.	Possibly	Moderate	Police
27	3.3 New Code Enforcement Initiatives	CM Pannell	May-05	New fee-based program to certify code compliance of dwelling units. On the agenda for the Code Ad Hoc Committee.	To Be Determined	Significant	NSD/ Planning

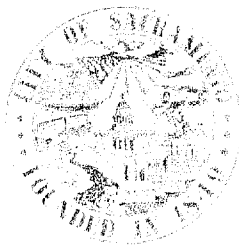
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28	Parking of Trailers, Auto Coaches, etc in Residential and Industrial Areas Public Right of Way	Public Works/On Street Parking/ Dennis Kubo	Pending	Expansion of the Commercial Vehicles ordinance to include parking of trailers, auto coaches, etc in residential and industrial areas in the public right of way. Staff to report back with discussion paper on current law and options available. Per request at the 9/02/03 L&L meeting, staff to provide update on status of report to Committeemember Sheedy. Information memo on issue sent to Council on 12/29/03. Pilot program currently being evaluated	Potentially yes	Moderate	Planning/ Public Works/NSD (Code)

5

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2.2

DEPARTMENT OF
POLICE

CITY OF SACRAMENTO
CALIFORNIA

5770 FREEPORT BLVD., SUITE 100
SACRAMENTO, CA
95822-3516

ALBERT NÁJERA
CHIEF OF POLICE

PH 916-433-0800
FAX 916-433-0818
www.sacpd.org

STEVIE SEGURA
DEPUTY CHIEF OF POLICE

October 20, 2004

RICK BRAZIEL
DEPUTY CHIEF OF POLICE

Law and Legislation Committee
Sacramento, California 95814

Honorable Members in Session:

**SUBJECT: PROPOSED AMENDMENT TO SACRAMENTO CITY CODE 9.04.050
ORDINANCE PROHIBITING THE CONSUMPTION OF ALCOHOLIC BEVERAGES
IN PUBLIC PLACES**

LOCATION AND COUNCIL DISTRICT: Citywide, All Council Districts

RECOMMENDATION:

This report is for Committee direction to staff on this issue.

CONTACT PERSON: Kyle Jaspersen, POP Officer, Office of Operations, 277-6142
Sherri Scruggs, Program Analyst, Office of Operations, 433-0710

FOR THE COMMITTEE MEETING OF: November 16, 2004

SUMMARY:

The City currently has an ordinance prohibiting the consumption of alcoholic beverages in public places. The City does not have an ordinance prohibiting the possession of open alcoholic beverages upon public properties.

Staff has drafted a Discussion Paper on this topic and attached it to this report as Exhibit "A".

Staff proposes that the City amend the current ordinance to include prohibiting the possession of open alcoholic beverages in public. Staff has conducted research into similar ordinances from other cities. The Police Department would like to work with the City Attorney's office to determine whether the prohibition can be extended to private property. A sample ordinance has been attached to this report as Exhibit "B" (City of Chico).

The mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property; solve neighborhood problems, and enhance the quality of life in our City.

BACKGROUND:

Current Sacramento City Code 9.04.050 states, in part, that, *“It is unlawful for any person to consume beer, wine or any intoxicating liquor on any street, sidewalk, alley, highway or public court.”* This ordinance only pertains to the consumption of alcoholic beverages. There is no ordinance in Sacramento that prohibits the *possession of an open* container and consumption of alcoholic beverages upon public *properties*.

FINANCIAL CONSIDERATIONS:

This proposed amendment to the City Code has no current fiscal effect.

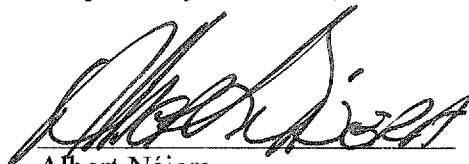
POLICY CONSIDERATIONS:

Per the policies approved by the City Council, proposed new City legislation is reviewed by the Law and Legislation Committee to provide policy direction to staff prior to proceeding with drafting an ordinance for the Committee and Council consideration.

ESBD CONSIDERATIONS:

None.

Respectfully submitted,



Albert Najera
Chief of Police

RECOMMENDATION APPROVED:



Ken Nishimoto
Deputy City Manager

TABLE OF CONTENTS:

- 1) Discussion Paper – Exhibit “A” Page 3-4
 - 2) Sample Ordinance from City of Chico – Exhibit “B” Page 5
- Ref: COP 10-35

EXHIBIT "A"

Discussion Paper on Proposed Amendment to Ordinance Prohibiting the Consumption of Alcoholic Beverages in Public Places – Sacramento City Code 9.04.050

It is common to observe people in an intoxicated state, walking along the public streets and sidewalks with an open container, especially in the Downtown and high-crime areas. These intoxicated people are often a source of repeated nuisance activities and consequently police calls-for-service from citizens.

Some of the nuisance activities commonly associated with possession/consumption of alcoholic beverages upon public and private properties include, but are not limited to:

- Disturbance of the peace
- Public drunkenness
- Soliciting
- Gambling
- Illegal drug activity
- Public urination
- Assaults/Batteries
- Acts of vandalism
- Excessive littering
- Loitering
- Lewd conduct
- General disruption of the health, peace, and/or safety of citizens residing or working in the surrounding area

Current Sacramento City Code 9.04.050 states, in part, that, "*It is unlawful for any person to consume beer, wine or any intoxicating liquor on any street, sidewalk, alley, highway or public court.*" However, this ordinance only pertains to the *consumption* of alcoholic beverages. There is no ordinance in Sacramento that prohibits the *possession* of open alcoholic beverages upon public properties. Staff would like to work with the City Attorney's office to determine whether the prohibition can be extended to private property.

Logically, if people possess open alcoholic beverages, then they are also consuming these beverages. The Police Department has no authority to take enforcement action unless an officer witnesses the person drinking from the container. Staff proposes that the City amend the current ordinance to include prohibiting the *possession* and consumption of alcoholic beverages upon public *properties*.

If approved, the amended language for this ordinance would state, in part, *"It is unlawful for any person to possess an open alcoholic beverage or to consume an alcoholic beverage on any street, sidewalk, public walkway, alley, highway, or city parking lot, unless pursuant to a license issued for that purpose by the State of California Alcoholic Beverage Control Office."*

Staff has conducted research and found that the City of Chico has an ordinance that prohibits the possession and consumption of alcoholic beverages in public and private properties, as do many other cities throughout the state. Staff has reviewed these ordinances and attached one of them as an example. This example is from the City of Chico, and is marked Exhibit "B".

The California Business and Professions Code, 25620 B&P, already prohibits the possession of open alcoholic beverages in public places. This code requires that the City enact its own ordinance prohibiting the possession of open alcoholic beverages in public places in order to enforce the State code.

Specifically, California Business and Profession Code 25620 states that:

"Any person possessing any can, bottle, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, in any city, county, or city and county owned park or other city, county, or city and county owned public place, or any recreation and park district, or any regional park or open-space district shall be guilty of an infraction if the city, county, or city and county has enacted an ordinance that prohibits the possession of those containers in those areas or the consumption of alcoholic beverages in those areas."

Amending the current City ordinance to include prohibiting the possession of open alcoholic beverages in public and private properties is necessary in order to allow the Police Department to enforce State Business and Professions Code 25620.

EXHIBIT "B"

CITY OF CHICO MUNICIPAL CODE:

9.30.010 Purpose.

This chapter is adopted pursuant to the municipal affairs provisions of Section 201 of the City Charter for the purpose of regulating the possession and consumption of alcoholic beverages upon certain public and private properties.

9.30.030 Prohibition on the possession and consumption of alcoholic beverages.

It shall be unlawful for any person to possess an open container of an alcoholic beverage or

to consume an alcoholic beverage upon any of the following properties within the city:

A. Upon any public street, sidewalk, alley, parking lot, or other property which is owned by or

leased to the city and open to members of the general public, except for:

1. Any city park or playground in which the possession and consumption of alcoholic

Chico Municipal Code POSSESSION AND CONSUMPTION

OF ALCOHOLIC BEVERAGES

(8/20/04) 9.30-2

beverages is regulated by the park rules adopted in Title 12R of this code; and

2. Any portion of the Chico Municipal Airport in which the possession and consumption of alcoholic beverages is regulated by the airport rules and regulations adopted in Title 11R of this code; and

3. Any city property which is leased to a third party in which the lease agreement does not

prohibit the possession and consumption of alcoholic beverages; and

4. Any portion of a public street, sidewalk, alley, parking lot or other property owned by or leased to the city in which the sale of alcoholic beverages is permitted as part of a franchise granted by the council pursuant to Chapter 14.60 of this code.

B. Upon any private parking lot which is located on property used for commercial purposes,

except when the owner or other person entitled to the possession of the parking lot has given prior consent to the possession of an open container of an alcoholic beverage or the consumption of an alcoholic beverage within such private parking lot.