



Legislation Details (With Text)

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Highlights of the Rules Committee Meeting of June 26, 2017

CITY OF SAN LEANDRO

**CITY COUNCIL RULES COMMITTEE June 26, 2017
8:30 AM - 10:00 AM**

**San Leandro City Hall
835 East 14th Street San Leandro,
California Sister Cities Gallery**

HIGHLIGHTS

1. CALL TO ORDER

The meeting was called to order at 8:37 a.m.

1. A. Attendance

Committee members present: Councilmember Lee Thomas, Councilmember Pete Ballew

City staff present: City Manager, Chris Zapata, Assistant City Manager Jeff Kay; Deputy City Clerk,

Deon Sailes; Deputy City Manager, Eric Engelbart; City Attorney, Rich Pio Roda; Police Chief, Jeff Tudor.

Public present: Teresa Harbboth; Bea C. Duncan; Ann Sekhon; Jeet Singh; Burpinder Singh; Jaine Rojas; Bob Sekhon; David Alga; Sallie Goetsh; Stefan Didak; Tamiko Johnson; Paul Cummings; Harbans Singh; Prashant Shah; Paul Sekhon; Vashone Huff; Dennis Ducey; Stephanie Ferguson; Brian Davis; Steven G.; Sanjiv Patel; Stacey Trongstrom; Wisam Al-deen; Emily Griego; Alexandra Wilson; Kathy Ko; B. Duncan; Ann Sankom; Teresa Harbord; David Alga; Sally Goetsh; Stefan Didak; Steve Greenhead; Kris Vashone; Sangeet Singh; Serena Chin; Jim Kroll; Menesh Johnson; Stacy T.; Paul Cummings Hussan

1. B. Announcements

None.

2. DISCUSSION ITEMS

2. A. Tobacco Retail License Vice Mayor Thomas requested City Attorney Rich Pio Roda provide a brief overview of the ordinance and its penalties.

City Attorney Rich Pio Roda discussed the following:

- Cigars and flavors: A complete ban is proposed. Additional options include limiting enforcement of the ordinance to school zones with current retailers being grandfathered in.
- Pack size: 5-packs are the minimum in other jurisdictions. Additional options include application to 15-packs; 5-10 packs or no limitation
- E-cigarettes: Flavors are banned. Additional options include banning within a certain distance of schools; no band on flavors; or ban only on flavors with nicotine.
- Minimum age of the sales clerk: A sales clerk cannot sell tobacco items unless at least 21 years old. Additional option is to reduce the minimum age to 18 years old.
- Penalties:

1st Violation = Written warning

2nd Violation = Revocation with eligibility to reapply in 30 days;

3rd Violation = Revocation with eligibility to reapply in 90 days

4th Violation = 5-year ban

- Neighboring cities compared (1st, 2nd, 3rd, 4th, unless otherwise stated)
 - El Cerrito: 10-day suspension; 30-day suspension; 60-suspension; revocation
 - Hayward: 3rd violation = revocation; Action taken upon 3rd violation;
 - Sonoma: 30-day suspension; 90-day suspension; 1-year suspension; revocation
 - Berkeley: 30-day suspension; 90-day suspension; 1-year suspension; revocation
- Conclusion: Awaiting the committee's direction and future scheduling

3. PUBLIC COMMENTS

There were 23 speakers on this item: Alexandra Wilson; Kathy Ko; B. Duncan; Brian Davis; Stephanie Ferguson; Ann Sekhon; Teresa Harbord; David Alga; Sally Goetsh; Stefan Didak; Steve Greenhead; Not Ascertainable; Kris Vashone; Sangeet Singh; Serena Chin; Emily Griego; Jim Kroll; Menesh Johnson; Stacy T.; Paul Cummings; Paul Sakon; Hussan; Not Ascertainable (2)

4. COMMITTEE MEMBER COMMENTS

Councilmember Ballew made the following framing points:

- Purpose of the ordinance is to de-normalize the use of tobacco and flavored tobacco around our kids while trying to balance needs of our business community.
- A few facts regarding the health risks associated with smoking: \$38.6 million per year in health costs to San Leandro /\$468 per resident, smoking and non-smoking.
- 10,000 of San Leandro residents live below the poverty level.
- 40,000 Californians died of smoking-related cancer last year/111 people per day die of Cancer.
- More than 6,666 people have died of smoking-related Cancer since the last Rules Committee meeting. Journal of American Medicine.
- 2014-2015 - 39% of SLUSD 11th grade, healthy kids have smoked e-cigarettes/243 kids.
- As early as 1972, memo suggested adding sweetening flavors to cigars to attract new smokers
- Youth uptake is down; and out of the same report today it is stated that the past 30-day use is 11.3%/260 SL High School students
- Understands the loss of business

Three main issues: cigars, penalties, and age of the clerk

Vice Mayor Thomas asked City Attorney Rich Pio Roda whether the ordinance would apply to on-line retail sales. City Attorney responded Yes and clarified NO as to on-line wholesalers. Vice Mayor indicated that he has met with the public and understands that the stated penalties are of concern; thus, he mentioned restructuring the penalties and trying to find a middle ground.

Vice Mayor's Suggestions:

1. Proposed Penalty Structure: (Primary focus of the previous council meeting)
 - 1st Penalty = Written warning
 - 2nd Penalty = \$2,500 fine
 - 3rd Penalty = 30-day suspension
 - 4th Penalty = Same/Revocation-eligible to reapply after 5 years with prohibition of tobacco sale at the location during the 5 years (to be amended below) within a 60-month period
2. Clerk's age: Reduce it to 18 years
3. 5-year probation (eligibility) after 4th violation be reduced to 3 years
4. Pack size: consider minimum price of \$7

Vice Mayor asked Councilmember Ballew if he would like to reply.

Councilmember Ballew suggested:

- Adding a fine for the clerk who violates the ordinance - \$500 each time; thus, the store owner

and clerk have an interest in adhering to the requirements.

- In addition to minimum price of \$7 per pack add 5-pack minimum
- The clerk's fine can be collected through the assistance of the Superior Court; and
- 3rd violation = 15 to 20-day suspension - considering San Leandro has no violations

Vice Mayor agreed to a 20-day suspension for 3rd violation and forward it to Council

Recommendations:

1. Proposed Penalty Structure: (Primary focus of the previous council meeting)
 - 1st Penalty = Written warning
 - 2nd Penalty = \$2,500 fine for the business and \$500 fine for the point of sale clerk for each violation
 - 3rd Penalty = 20-day suspension
 - 4th Penalty = Same/Revocation-eligible to reapply after 3-years with prohibition of tobacco sale at the location during the 3-years
2. Clerk's age: Reduce it to 18 years
3. Reduce 4th violation penalty from 5-year probation (eligibility) to 3-years
4. Pack size: Minimum size of cigars - 5 pack
5. Start date: November (2017)
6. Chewing tobacco is included in the Ordinance

City Attorney indicated that he has received sufficient direction to redraft the ordinance to include the recommendations. Email notification will be provided to attendees on sign-in roster. This item shall be presented to the full Council for consideration on September 18, 2017.

5. ADJOURN

The meeting adjourned at 10:00 a.m.