

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: ADRIANE MERTENS, CHIEF COMMUNICATIONS &
INTERGOVERNMENTAL RELATIONS OFFICER
SUBJECT: COUNCIL DIRECTION TO VOTING DELEGATE FOR THE LOCC
2021 ANNUAL CONFERENCE REGARDING COUNCIL
POSITION ON THE RESOLUTIONS COMING BEFORE THE
LEAGUE GENERAL ASSEMBLY

AGENDA ACTION: MOTION

RECOMMENDATION

It is recommended by the Communications and Intergovernmental Relations Office that the Council, by motion, (a) consider taking a position on the two proposed League of California Cities resolutions – first, a resolution calling for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases; and second, a resolution calling upon the governor and the legislature to provide necessary funding for CUPC to fulfill its obligation to inspect railroad lines; and (b) provide associated direction to its Voting Delegate for the upcoming meeting of the League General Assembly.

EXECUTIVE SUMMARY

The League of California Cities (Cal Cities) 2021 Annual Conference is scheduled for Wednesday, September 22 through Friday, September 24, 2021 at the SAFE Credit Union Convention Center in Sacramento, California. The Annual Conference presents an opportunity for city officials to attend informative sessions, learn about the challenges that California's cities face, collaborate on solutions, and celebrate the accomplishments of Cal Cities and member jurisdictions. The Annual Business Meeting occurs during the General Assembly on the last day of the conference, where member cities take action on conference resolutions – each member city has one Voting Delegate for this process.

Resolutions serve as policy guidance for Cal Cities and are meant to improve the quality, responsiveness, and vitality of local government in California. This year, two resolutions have been submitted for consideration along with background materials, supporting letters, and analyses (Attachment 1). The Communications and Intergovernmental Relations Office recommends that the Council provide direction to

the Council's Voting Delegate as to its position on both resolutions. The Council may recommend that the Council's Voting Delegate support, oppose or take no position on the resolutions.

BACKGROUND

Two resolutions have been submitted to the General Resolutions Committee for recommendation and voting at the General Assembly. Resolutions submitted to the General Assembly must have the concurrence of at least five cities or city officials from at least five or more cities. These letters for both resolutions are included in the packet.

The two submitted resolutions are as follows:

Resolution #1: *This resolution calls on the League of California Cities (Cal Cities) to request the Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state on line purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.*

The proposed resolution was also referred to the Cal Cities Revenue and Taxation Policy Committee.

Per the sponsoring City, the City of Rancho Cucamonga, the impetus behind the Resolution is the concentration of sales tax revenue from in-state online sales in cities with fulfillment centers, which deprives neighboring jurisdictions of much needed revenue and subjects them to the impacts of these warehouses (increased traffic, air pollution, damaged roads, etc.) without the accompanying funds to address these concerns. Furthermore, the sponsoring city argues that some municipalities are "built out" without the commercial space or option to host a fulfillment center and are therefore immediately at a disadvantage to benefit from tax proceeds of in-state online sales.

The resolution is currently supported by the Town of Apple Valley, City of El Cerrito, City of La Canada Flintridge, City of La Verne, City of Lakewood, City of Moorpark, City of Placentia, and City of Sacramento.

Resolution #2: *This resolution calls upon the Governor and the legislature to provide necessary funding for the California Public Utilities Commission (CPUC) to fulfill its obligation to inspect railroad lines to ensure that operators are addressing illegal dumping, graffiti and homeless encampments that degrade the quality of life and result in increased public safety concerns for communities and neighborhoods that abut the railroad right-of-way.*

COUNCIL DIRECTION FOR LOCC ANNUAL CONFERENCE

PAGE 3 OF 6

Per the sponsoring agency, the City of South Gate, the impetus behind the resolution is the lack of regulatory authority that local governments possess to conduct abatements along the railroad right-of-way, which classifies as private property, as well as the lack of oversight to require railroad operators to conduct maintenance and cleanups on a regular basis or in a timely manner.

The resolution is currently supported by the Cities of Bell Gardens, Bell, Commerce, Cudahy, El Segundo, Glendora, Huntington Park, La Mirada, Long Beach, Lynwood, Montebello, Paramount, and Pico Rivera.

PRIOR CITY COUNCIL REVIEW

Not applicable.

ANALYSIS

The LOCC has provided the following analysis of the proposed resolutions:

Resolution #1

A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES (“CAL CITIES”) CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION

Since the 1950’s, cities have traditionally received 1 cent on every dollar of a sale made at a store, restaurant, or other location within a jurisdiction’s boundaries. Over the years, this simple tax structure has evolved into a complex structure of how sales and use tax allocation is managed in California, both have the 1% value, but are applied depending on where the transaction starts, where the goods are located, and how the customer receives the goods.

With the exponential growth of online sales and the corresponding lack of growth, and even decline, of shopping at brick-and-mortar locations, cities are seeing much of their sales tax growth coming from the countywide sales tax pools to which much of the revenue from out of state sales are allocated. Toward the end of calendar year 2020, one of the world’s largest online retailers changed the ownership structure of its fulfillment centers, resulting in the sales tax this retailer generates from in-state sales now being entirely allocated to the specific city in which the warehouse fulfillment center is located as opposed to going into the countywide pool that is shared by all jurisdictions in that County based on taxable sales in those jurisdictions. This change

has resulted in more than 90% of California cities experiencing a decrease in sales tax revenue that began in the fourth quarter of calendar year 2020. The fluctuations in sales tax following the pandemic shutdowns have masked the issue but this change will have long-term impacts on revenues for all California cities as these revenues benefitting all cities have shifted to a handful of cities and counties that are home to fulfillment centers rather than capturing revenues based on where the goods are purchased.

All cities are impacted differently and entities without fulfillment centers also experience impacts from ecommerce and increased deliveries including traffic, air quality and compromised safety as well as the negative impact on brick-and-mortar businesses struggling to compete with the sharp increase in online shopping. These cities are rightfully entitled to compensation in an equitable share of sales and use tax that balances the impacts to each jurisdiction involved in the distribution of products purchased online.

In seeking advisement on the matter from the City of Santa Rosa's consultant, *Avenue Analytics and Insights*, the City's consultant acknowledged that the issue is one that deserves further analysis and consideration and, therefore, would generally advise support of the resolution. Incorporating such a stance into Cal Cities' policy goals could allow Cal Cities to more effectively advocate for an assessment of the existing tax structure, a re-evaluation of the allocation formula, and a more equitable distribution of sales tax revenues that may ultimately benefit the City of Santa Rosa. The consultant did believe Santa Rosa likely could see some benefits that were not present previously, but full data is not yet available and will completely depend on what is ultimately negotiated in any legislation that could be proposed for advancement by Cal Cities and depending on what 'fair and equitable' translates to in terms of any policy ultimately passed by the Legislature.

Resolution #2

A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE NECESSARY FUNDING FOR CPUC TO FULFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE QUALITY OF LIFE AND RESULTS IN INCREASED PUBLIC SAFETY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUT THE RAILROAD RIGHT-OF-WAY.

The oversight of rail operations in the State of California falls under the California Public Utilities Commission (CPUC). The CPUC has only 41 inspectors covering over 6,000 miles of railroad lines and their primary task is ensuring equipment, bridges and rail lines are operationally safe.

The right-of-way areas are open and, in some communities, have been inviting to individuals to conduct illegal dumping and to graffiti structures. Additionally, according to the 2020 Annual Homeless Assessment Report (AHAR) to Congress, there has been a national increase in unsheltered individuals since 2019, and more than half (51 percent or 113,660 people) are within California. Many metro areas in California lack an adequate supply of affordable housing which has contributed to an increase in homelessness that has spread to railroad right-of way. This poses an increased safety risk to these individuals of being struck by trains. Homeless encampments also often create unsafe work environments for railroad and agency personnel.

While the CPUC cannot compel homeless individuals to vacate railroad rights-of-way or create shelter for homeless individuals, it has the regulatory authority to enforce measures that can reduce some safety issues created by homeless encampments. The disposal of waste materials or other disturbances of walkways by homeless individuals can create tripping hazards in the vicinity of railroad rights-of-way. This would cause violations of Commission GO 118-A, which sets standards for walkway surfaces alongside railroad tracks. Similarly, tents, wooden structures, and miscellaneous debris in homeless encampments can create violations of 62 Commission GO 26-D, which sets clearance standards between railroad tracks, and structures and obstructions adjacent to tracks.

As private property, cities must arrange for staff to access the site or wait weeks for the rail operator to schedule a cleanup. A city may elect to declare the encampment as a public nuisance area, which would allow the city to clean up the areas as the railroad company's expense for failing to maintain the tracks and right-of-way. In limited circumstances, some cities have negotiated Memoranda of Understanding (MOU) with railroad companies to provide graffiti abatement, trash, and debris removal located in the right-of-way and clean-ups of homeless encampments. Absent an MOU detailing shared maintenance, enforcement, and expenses, cities do not have the authority to unilaterally address the public safety, environmental quality, and health impacts on the local community.

Here locally, the Santa Rosa Police Department (SRPD) reports the areas of 9th and Wilson streets, Carrillo Street and Central Avenue, and south of Hearn Avenue as areas near railroad right of way maintained by the Sonoma-Marín Area Rail Transit where homeless encampments are frequently established, and often result in trash and debris left in the area. SMART officials have installed fencing at their property line as an additional safety measure, so in most cases, the encampments are on city or private property just past the railroad right-of-ways. Additionally, SMART has a crew which actively patrols the railroad lines in Santa Rosa and coordinates with our Downtown Enforcement Team officers. Each year, SMART provides written authorization to the Santa Rosa Police Department to enforce California Penal Code § 369i (Trespassing on the railway), as well as any and all other criminal statutes which occur within its right of way. Their team is very proactive in calling dispatch whenever they find an encampment or subject trespassing on their property.

While the public safety concern of increased pedestrian foot traffic in the area of the railroad lines still exists in Santa Rosa as individuals frequently cross back and forth from their encampments, the proposed resolution as written, does not appear to address the root of the issue here in Santa Rosa – a lack of overall shelter and housing options across the region for our unsheltered community members.

FISCAL IMPACT

Providing direction for either of these resolutions will not have a fiscal impact on the City's General Fund.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – 2021 Annual Conference Resolution Packet

CONTACT

Adriane Mertens, amertens@srcity.org, 707-543-4699