

This is a summary of the most useful and informative sessions that I attended at the LCC conference in Sacramento. It is not a comprehensive list, but is intended to provide the most significant take-home lessons from the conference so that the entire council and, by extension, the city, will get the most value from the travel funds expended.

Sessions on legal issues

The vast majority of the interesting presentations I attended related to legal issues, as is often the case at LCC conferences. Any further inquiries on these topics can conveniently be directed to the city attorney.

The legal topic most relevant to Sunnyvale is CEQA reform, because our city has become a minor hotbed of abuse of environmental law by citizens who fail on policy grounds to stop projects that they oppose, so they file lawsuits to invalidate environmental impact reports so as to stall the projects. This was supposed to be the year that the state legislature enacted CEQA reform, because cities all over California have been damaged the same way that Sunnyvale has. Approximately 15 bills modifying CEQA were debated in the Legislature this year, but the only one that passed was SB743, sponsored by the leader of the State Senate, who represents Sacramento, creating a reformed CEQA process that applies only to the proposal to build a new arena for the Sacramento Kings basketball team. The bills that didn't get passed included such reforms as less-detailed review for projects that will benefit the environment (such as the Mary Avenue overpass or solar energy projects) or those located in transit priority areas, expedited judicial review, elimination of redundant state requirements, and more. It is hoped that what was important enough to be done for Sacramento will be viewed as important enough to do for all the other cities in the state next year.

Another topic relevant to Sunnyvale that was discussed in some detail was included in a session on free speech rights at city-sponsored events. The traditional start of the city council campaign season in Sunnyvale is the Chamber of Commerce's Art and Wine festival on the first weekend in June. The city turns over several downtown city blocks to the chamber for the event. Those who wish to proselytize on any issue are required by the chamber to apply for a permit, and are then told that they must locate themselves in the Free Speech Area which is always located on the boundary of the festival. This year, one candidate did not register with the Chamber, and roamed through the event, handing out campaign material, justifying it later by claiming ignorance of the official procedure. The consensus of several attendees at this session was that the Chamber or the City could have forcibly relocated the candidate to the Free Speech Area if he had set up a table or booth, but that because if he was simply walking around, the famous Pruneyard case would have made it difficult to enforce the Chamber's regulations.

A third legal area of great interest is the increasing use of social media in the workplace. Speaker Traci Park, who provided me with an 18-page document on this topic that I am providing to the city attorney, said "Everything you put on social media is discoverable. No court has ever sided with privacy claims." The most-discussed case here was Bland v. Roberts,

whose appeal was decided by the 4th Circuit shortly after the conference. The sheriff in Hampton, VA, reappointed almost all of his deputies after being reelected, and most of the handful who were not reappointed had “liked” his opponent’s campaign Facebook page. They sued for wrongful termination, saying that they had lost their jobs because they had freely expressed an opinion that their boss did not like. They lost in court, but won on appeal, where clicking “like” on Facebook was declared to be just as much a constitutionally-protected form of expression as putting up a lawn sign or typing in the words “I like candidate X” separately rather than simply making one mouse click. Certainly one could argue that the deputies’ action was much closer to “speech” than other activities that have been judged by the courts to fall under First Amendment protections, like burning a flag, giving a lap dance in an adult business, or writing a check to a political candidate or organization.

A fourth legal area relevant to cities involves homelessness. When homeless people decide to stay on city property, and the city takes action to remove them or their possessions, multiple organizations file lawsuits on behalf of the homeless individuals, and they have won some of those lawsuits. In Los Angeles, a concerted effort to clean up a blighted area was brought to a halt by the verdict in *Lavan v. Los Angeles*, which held that the city could not confiscate the possessions of homeless people left on sidewalks. In *Jones v. Los Angeles*, an 8th Amendment cruel and unusual punishment argument was successful in challenging the arrests of squatters under the view that the homeless people had no alternative to living on the streets, and punishing them for doing so was therefore cruel and unusual. The panel noted that if a homeless encampment is established, and the city doesn’t stop it (as with the infamous Camp Agnos outside San Francisco city hall some years ago) that a legal expectation of privacy develops. Anti-camping ordinances are constitutional and need to be enforced quickly and consistently. Confiscation of possessions, though, is legally problematic. The panel recommends giving owners, storing the material for 90 days, and protecting perishables.

Pacific Gas and Electric

The most useful session outside the legal ones was a presentation by P.G.&E. They encouraged the use of their 811 hotline number to report any high-voltage lines being down. Live power lines (12,000 volts) are extremely dangerous, and they performed an impressive demonstration using model buildings, cars, and people. They recommend that passengers in a car that is hit with a live power line remain in the car unless the car is on fire, in which case the passengers should jump out and shuffle their feet as they move away. P.G.&E. has a modernization plan for each of its regional districts, and cities are urged to coordinate their public works projects with the ones that the utility will be carrying out so that streets do not get ripped up, repaired, and reexcavated. Sunnyvale’s policy includes coordination of street repairs with installation of optical fiber by communications companies; it makes sense to do similar coordination with the power utility.