

Oakland City Council

05 DEC 15 AM 9:30

RESOLUTION No. 79666 C.M.S.

RESOLUTION AUTHORIZING THE CITY ATTORNEY TO JOIN IN AN AMICUS BRIEF TO THE CALIFORNIA SUPREME COURT REGARDING THE CASE OF O'CONNELL v. CITY OF STOCKTON TO PROTECT OAKLAND'S BEAT FEET AND SIDESHOW VEHICLE FORFEITURE ORDINANCES

WHEREAS, in O'Connell v. City of Stockton (2005) 27 Cal.Rptr.3d 696, 05 Cal. Daily Op. Serv. 3410, 2005 Daily Journal D.A.R. 4635, 2005 Daily Journal D.A.R. 481, the Third District Court of Appeal held that Stockton's nuisance vehicle forfeiture ordinance was preempted by Health and Safety Code section 11469 et seq and by Vehicle Code sections 21 and 22659.5; and

WHEREAS, the California Supreme Court has accepted Stockton's petition for review in O'Connell v. City of Stockton (Supreme Court Case Number S135160); and

WHEREAS, if upheld by the California Supreme Court, the O'Connell decision may have an adverse impact on Oakland Municipal Code chapter 9.56 and 9.60 which relate to forfeiture of nuisance vehicles used in illegal drug purchases, solicitation of prostitution, pandering, and sideshows; and

WHEREAS, the League of California Cities has decided to file an *amicus* (friend of the court) brief to the California Supreme Court in support of the City of Stockton and has asked Oakland and other cities to join in the brief; now therefore be it

RESOLVED, that the City Attorney, on behalf of the City of Oakland, is authorized to sign and join in an *amicus* brief to the California Supreme Court advocating that the O'Connell decision be overruled and supporting the City of Stockton's position.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - ~~BRUNNER~~, KERNIGHAN, ~~NADEL~~, QUAN, ~~BROOKS~~, REID, CHANG, AND PRESIDENT DE LA FUENTE - 5

NOES -

ABSENT -

ABSTENTION -

Brooks, Brunner and Nadel - 3

ATTEST:

LATONDA SIMMONS

City Clerk and Clerk of the Council of the City of Oakland, California