

# Sweeping Reforms in Zoning System Urged

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The Citizens Committee on Zoning Practices and Procedures Tuesday recommended sweeping reforms in a report criticizing both elected and appointed city officials for abuse of the system.

The committee, headed by former Mayor Fletcher Bowron, said it agrees with the 1966 County Grand Jury that "campaign contributions, political obligations and friendships" influence zoning decisions.

The blue-ribbon committee also:

1—Singled out the Board of Zoning Adjustment for reaching

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arbitrary and illegal decisions and for treating the public with disrespect.

2—Criticized the City Council for practicing "minority rule" in allowing individual councilmen to control zoning decisions in their districts.

At a press conference following delivery of the report to Mayor Sam Yorty and the City Council, members of the seven-man committee accused the City Council of shirking its responsibility in rubber-stamping the appointment of commissioners to the BZA and Planning Commission.

Without naming him, the committee also criticized Mayor Yorty for the practice of allowing commissioners to serve at his "sufferance" without reappointing them after their terms expire.

The committee said zoning decisions are being reached under outmoded procedures which permit "government by men instead of by law" at the expense of the public.

## Suggestions Offered

In 36 recommendations contained in the report, the citizens' committee proposed generally to correct abuses by:

1—Rewriting the zoning code, streamlining procedures and developing a comprehensive general plan (master plan) to provide a firm legal basis for decisions.

The changes also would minimize the discretionary power of appointed and elected officials in reaching zoning decisions.

2—Adopting a code of ethics for zoning officials and also strong laws prohibiting conflicts of interest, private contacts between zoning officials and interested parties in pending zoning cases, and requiring complete, itemized reporting of campaign contributions.

The committee also called on the Mayor and City Council to seek state legislation so the County Grand Jury can investigate city planning and zoning matters on its own initiative.

## Invitation Needed

Under present law, the grand jury can investigate only if invited by the city or during the course of a criminal investigation.

The Bowron committee was appointed by the council and Yorty on the recommendation of the 1966 grand jury.

Other committee members are Rudolph Ostengaard, vice president of United California Bank; Dr. John C. Bollens, UCLA political science professor; J. Robert King, president of King Nutronics Corp., an aerospace firm; Gordon Whitnall, a planning consultant and the city's first planning director; and Averill H. Munger and Mrs. Robert Kingsley, members of the 1966 County Grand Jury.

# ZONING REFORMS URGED IN REPORT

## Influence Claimed

In asking for the investigation, the grand jury said "Influence can and has been and in all probability will be exerted through the medium of campaign contributions, political obligations and friendship."

The citizens committee set the stage for its recommendations in the first paragraph of an introduction to the report which declared the committee agrees with the grand jury statement.

"Tremendous wealth can be accrued from zoning actions," the report said. "Thus, the opportunity and incentive to grant zoning favors . . . present a fertile field for corruption."

## Prosecution Problem

The committee pointed out that criminal prosecution in zoning cases is difficult because "necessary corroborating evidence is almost impossible to develop."

Questioned at the press conference, Bowron said the committee was not empowered to develop criminal evidence to present to the district attorney or grand jury.

He said if public complaints were accepted at face value, influence peddling in zoning decisions in the past were "quite widespread."

Whether money has changed hands or not, the committee said favoritism in zoning not only has contributed to a "growing ugliness" in the city but has undermined public confidence in city government.

"We conclude," the committee said, "that the public welfare will be better served by not enumerating the many reported charges of suspicious illegal actions, but rather to recommend changes . . . which will make favoritism in planning and zoning matters very difficult."

## Code of Ethics

One of the most important sections of the committee report calls for a code of ethics, conflict of interest laws and stronger laws in reporting political contributions.

The report recommended that the City Council adopt a code of ethics which would "be helpful" in the overall area of maintaining high ethical standards.

The report also recommended strong conflict-of-interest laws banning action by a commissioner on matters in which he had a private or personal interest.

Commissioners with interests would be required to declare them prior to consideration of the case in question.

## Open Meetings

The committee noted the ban against secret meetings under the Brown Act, and said it also felt in zoning matters "private communications whether written or oral" should be prohibited between zoning officials and interested parties, including the mayor and councilmen.

If private communications occurred inadvertently, the official would be required to disclose it or face misconduct in office charges and possible removal.

Deliberate violations would constitute a misdemeanor.

The committee said zoning matters are "nonpolitical" and all members of such commissions should have access to identical information in the public record.

Noting that political contributions have influenced zoning decisions, the com-

mittee declared the present system of reporting contributions "entirely inadequate" and recommended strengthening it to require detailed accounts of the contributors and how much each gave.

Exact accounting would be required not only of amounts contributed directly to elected officials but amounts also collected for them by campaign committees, and professional firms.

"We believe that a candidate should be held publicly accountable for all campaign contributions on his behalf," the committee said.

On the subject of appointments to commissions, the committee recommended that the City Council share equal responsibility for the quality of appointees.

## Responsibility Cited

Asked at the press conference if the council had shirked its responsibility in the past by rubber-stamping the mayor's choices, Bowron replied:

"Frankly, we think they have."

The committee pointed out that councilmen are elected in a particular district but owe a responsibility to the city as a whole in zoning decisions.

"Practices which permit a councilman individually to control decisions affecting his district is in effect a form of minority rule and should be eliminated," the report said.

The committee also criticized the practice under which individual councilmen delay zoning decisions by holding the file in committee or in their offices.

## Removal Power

In recommending that the council assume equal responsibility for appointments, the committee also recommended that the council as well as the mayor have power to remove commissioners.

The council would be able to remove a commissioner by a two-thirds vote with the approval of the mayor and a four-fifths vote if the mayor vetoed it.

The committee expressed "serious concern" about the way the BZA has functioned in recent years, and the consequent loss of public confidence in the agency.

## Restrictions Inadequate

"Unfortunately, the City Charter, although clear as to intent, does not provide adequate restrictions against violation of this principle," the report said.

The committee criticized the mayor for failing to replace or reappoint commissioners whose terms expire and for replacing them before their terms expire "simply by appointing someone else."

Whitnall said Planning Commissioner Melville Branch's term expired in 1965 and he is serving at the mayor's "sufferance" with no idea of whether he is to be replaced or not.

Whitnall said threat of removal under such circumstances potentially could be used to control a commissioner's vote.

## Called Improper

Whitnall called it "improper and dangerous" and said it defeats the intent of the charter.

To make sure commissioners are not subject to arbitrary removal, the committee recommended requiring that appointments could be made only when an office became vacant.

The mayor would be allowed to remove commissioners before their terms expire but he would need a majority vote of the council to do it.

The committee also recommended that the council president appoint commissioners to vacancies if the mayor fails to act within 60 days, thus preventing commissioners serving at the mayor's sufferance.

## 'Resignations' Hit

On a related matter, the committee condemned the practice of requiring commissioners to submit signed resignations when they are appointed for the mayor to use at any time.

Former Planning Commissioner Ellis A. Jarvis testified before the committee that he had been required to submit such an application.

"Such practices hardly contribute to the exercise of independent judgement on the part of appointees," the committee report noted.

To halt the practice, the committee recommended that commissioners must file their resignations with the city clerk when they resign.

The committee expressed "serious concern" about the way the BZA has functioned in recent years, and the consequent loss of public confidence in the agency.

The report said citizens, too, lodged numerous complaints against the BZA charging:

1—Decisions were made at private conferences before public hearings were held.

2—Hearings were a "mere sham."

## New Evidence

3—The board heard new evidence which it properly shouldn't have considered.

4—The board acted "arbitrarily and capriciously" and reached decisions without supporting evidence.

5—Protestants were not given equal opportunity to present their case.

6—Protestants were "treated with disrespect" by the presiding officer, who, almost without exception, exercised arbitrary control over the conduct of the hearings.

Bowron identified the presiding officer as Roger S. Hutchinson, who resigned after articles in The Times outlined how he consistently voted favorably on cases presented by a personal friend who was a zoning expediter.

## Illegality Charged

The committee said the BZA in the past handed down illegal decisions and usurped the authority of the City Council by granting variances which produced the same effect as zone changes.

Many of the illegal variances were granted for service stations on property which the Planning Commission and City Council had refused to rezone for that or other commercial purposes.

A variance is designed to correct inequities between two identically zoned parcels of property.

"A variance should not and cannot legally be a substitute for a legislative zone change," the report declared.

The committee report recommended tightening the standards which the BZA must apply in granting variances and requiring precisely written findings which show the standards were met.

## Field Trips Limited

The BZA also would be prohibited from considering new evidence in its deliberations but could consider only the record, as in court appeals.

In addition, individual board members would be prohibited from making field trips with the appellant unless the entire board and opponents in the case were present, too.

"Numerous complaints were received about inadequate notice of pending zoning matters," the committee said. Sometimes notices weren't received at all or were received too late for interested parties to attend the hearing, the report said.

The committee recommended that notification procedures be strengthened and mailing lists be prepared by the city instead of the zoning applicant.

## Technical Changes

The committee also recommended that testimony in zoning matters be taken under oath.

Most of the committee's recommendations called for technical and procedural changes to strengthen the legal basis for zoning decisions. Some new zoning classifications were proposed.

The major legal proposal called for development of a comprehensive general plan (master plan).

Zoning classifications are based on the general plan and zone changes are granted when they conform with the general plan.

## Guide Unsatisfactory

But the committee pointed out that the general plan in use by the city is outdated and cannot serve as a satisfactory guide for future development.

The committee said this weakens the zone change procedure and leads to spot-zoning based on arguments and pressure instead of on law.

The committee recommended a step-by-step procedure for development of a satisfactory general plan and for periodic review of it on a

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# ZONING REFORMS

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rotating area-by-area  
basis.

Zone changes in a particular area would be considered only when the general plan of that area was being reviewed.

A zone change in a particular case would require specific written findings showing it would not violate the purposes of the general plan and would help to eliminate arbitrary decisions based on political pressure or other factors, the committee said.

The committee also called for a rewriting of the zoning code so that compatible uses for property would be grouped in the same classification.

The committee said this would help to prevent such conflicts as having an auto body shop adjacent to an apartment building.

Whitnall said zoning practices in the city have grown into a mixture of

legislative, judicial and administrative functions which the committee sought to "unscramble" by defining the property role of each agency involved.

A number of the committee's recommendations dealt with this problem.