

the WATSONVILLE <sup>South</sup>  
Council <sup>RP</sup>  
to meet  
in secret  
1/12/89

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Despite pleas from Watsonville residents and Councilman Dennis Osmer that the city's election fight be discussed in open session, Mayor Betty Murphy has called a closed session for Saturday morning.

The city's insurance coverage of its election fight is among the issues that will be discussed, Murphy said. Council members will talk by telephone with New York lawyer Vincent Fontana, who represents the city in its fight against the lawsuit, filed by the Mexican American Legal Defense and Education Fund, that called its at-large election system discriminatory to Hispanics.

Several council members had indicated they wanted to meet with Fontana after City Attorney Don Haile said at Tuesday's council meeting that the city had no choice but to pursue its election fight to the U.S. Supreme Court. The insurance company wants to pursue it, Haile said, because it would cost the company far less money to complete the appeals process than to pay MALDEF's court costs.

A "cooperation clause" in the city's insurance contract could force the city to pay \$1 million in court costs — \$500,000 to Fontana's firm and \$500,000 to MALDEF — if it dropped the fight against the wishes of its insurance company, Haile said Tuesday.

Osmer is asking the council to cancel Saturday's meeting, scheduled for 8 a.m. in City Manager John Radin's office.

Osmer said the community  
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should first have a chance to talk about a motion he made in a public session on the MALDEF suit Tuesday night. The motion asked that the council give consideration to holding any further discussion in open session on whether the city should pursue its election fight to the U.S. Supreme Court.

Murphy and Haile objected to taking any action regarding the city's election fight, saying to do so Tuesday night would constitute a violation of California's open-meeting law, since Tuesday's discussion of the issue was not listed on the agenda as an action item.

In his letter, Osmer rebutted that argument with a quote from the Brown Act, or open-meeting law. It has been supported by court cases "that where the subject matter is sufficiently defined to apprise the public of a matter to be considered and notice has been given as required by law, the governing body is not required to give further special notice of what action it might take ..."

Since that explanation of the Brown Act's intent was readily available to Haile, Osmer said, "I can only think that his opinion is not a legal opinion, but political deception."

At this point in the city's litigation with MALDEF, there is no new information that could be introduced, so there is

no need for a closed session, Osmer said.

"It is political," he said. "That's what the closed session

is all about."

Rebecca Garcia, president of the local chapter of LULAC, said she intended to be waiting outside the city manager's office Saturday, and would try to rally some other supporters of district elections.

"We made a vow on Tuesday we were going to come back again and again," she said.

Garcia said she would also repeat her requests for open sessions in a letter to Murphy.

Her letter states, in part, "Should you choose to disregard this request, you again are further underlining the finding of the Ninth Circuit Court of Appeals, that Hispanics in Watsonville do not have the opportunity to participate in the political process.

"Only a public hearing and public action can be regarded as participation in the political process."

Haile said Osmer was entitled to his own opinions and comments, but Murphy has the right to call a closed session on any matter in litigation. As to Osmer's motion Tuesday night, Haile said he did not feel the council could take any action because Murphy's intent in placing the item on the agenda was only to hold a discussion.

"I'm not going to argue legal points in the newspaper," Haile said. "I gave my opinion and it still stands."

Asked if she would consider complying with Osmer's request to cancel Saturday's closed session, Murphy replied

Regardless of Osmer's advocacy of open sessions, Murphy said the council should remember the city is involved in litigation.

"I think the difference is, Dennis has made up his mind that he doesn't want to pursue this suit any further," she said.

She said she did not know whether any decision would be made by the council Saturday, but said she would announce any action after the meeting.

"If a motion is made, I will read the motion," Murphy said.

Councilman Vido Deretich said he had been wanting to speak directly to Fontana for some time, and said he was almost sure he would make up his mind about the Supreme Court petition after Saturday's session.

"I need some answers," he said, "and when I get those answers, I'll make up my mind."