

## Council to open stance on items

### Flap over removal of trees spurring change at City Hall

By Mike Sprague, Staff Writer

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WHITTIER - The City Council agenda should provide more information on some of its closed-session items, said City Attorney Dick Jones.

Jones' comments came after open-government activist Richard McKee threatened a lawsuit in response to the Whittier City Council meeting in secret in January while deciding to cut down three ficus trees on Bright Avenue at Broadway Street.

The trees were at the home of a 3-year-old boy whose father, Peter Lennihan, said they posed a danger to his son's health.

McKee also had criticized the city for not letting the public know about the issue in advance, including the location of the home in the 6200 block of Bright Avenue.

The Jan. 22 agenda stated the council would discuss a case of potential litigation, but didn't identify the location or facts, saying "it would jeopardize the city's position."

"We probably have used that language much too liberally," Jones said at last week's City Council meeting. "We need more full disclosure of these items."

Jones said the decision on what to put on the agenda should be discussed by the city manager and city attorney.

The law allows city councils not to disclose what they're going to discuss if there might be litigation and the facts and circumstances are not yet known to the other party.

McKee, past president of Californians Aware, a government watchdog group, said the city is moving in the right direction.

"If they're trying to tell the public they're not going to use this unless they're absolutely sure it's correct, then I am pleased," McKee said.

State law does allow city councils to go into closed session to discuss a potential lawsuit against it.

But McKee said he believes in most cases, the facts should be revealed on the agenda.

It is unusual that there would be potential plaintiffs who didn't know the facts and circumstances of the case, he said.

"It should be so incredibly rare that the subject is rarely invoked," he said.

McKee and Jones still disagree about whether the council should have considered the tree-cutting issue in closed session.

"It was totally appropriate to discuss the threat of litigation and alternatives," Jones said.

Lennihan had verbally threatened the city with a lawsuit.

"I believe the process was followed properly," Jones said. "The information on the young man's illness was not appropriate for a public hearing."

McKee agrees that it was OK to go into closed session to discuss the city's potential liability.

Once that's done, they should have come out and discussed whether the trees should be removed, he said.

"Anybody who wants to speak on the issue could," McKee said. "Secrecy breeds distrust and it doesn't matter if secrecy is legitimate or not, it just breeds distrust."