

**ELK GROVE CHARTER COMMISSION
REGULAR MEETING
CITY COUNCIL CHAMBER, 8400 LAGUNA PALMS WAY
TUESDAY, AUGUST 12, 2008**

1. Call to Order / Roll Call / Pledge of Allegiance

The Regular Commission meeting of August 12, 2008 was called to order by Chair Allen at 6:03 p.m.

Present: Commissioners – Allen, Johnson, Sendejas-Lopez, and Orrock

Absent: Commissioners – Loveland and Martin

Also Present: City Attorney Susan Cochran and City Clerk Susan Blackston

Commissioner Johnson led the pledge of allegiance

2. Public Comment (on non-agenda items)

None.

3. Approval of Minutes

MOTION/VOTE:

Commissioner Sendejas-Lopez made a motion, Orrock second, to approve the July 29, 2008 minutes as presented. The motion carried by the following vote:

Ayes: Commissioners – Allen, Johnson, Lopez, and Orrock

Noes: Commissioners – None

Absent: Commissioners – Loveland and Martin

4. Stephen Kinney of *Public Opinion Strategies* to review the Elk Grove City Telephone Survey results

With the aid of an overhead presentation (filed), Stephen Kinney, Partner with *Public Opinion Strategies*, reviewed the results of the telephone survey conducted July 27 through 29, 2008. He emphasized the importance of the “intensity scale”, e.g. “one through ten”, noting that answers on the high end of the scale indicate what people honestly feel very strongly about. A percentage nearing or exceeding 40% denotes a significant impact. Mr. Kinney noted that, since 1995, it has been women that drive issues in California, as they tend to be more vocal and civically active. He recommended that gender be considered when reviewing demographics of the survey results. Mr. Kinney highlighted the following results:

- The first question, “... tell me if you believe Elk Grove is headed in the right direction, or do you think Elk Grove is off on the wrong track”, received 50% as Right Direction and 38% as Wrong Track. He noted that the most negative result was 55% as Wrong Track from District 5.

- The initial opinion of respondents was that, only 12% had heard anything about the charter concept. Mr. Kinney pointed out that the advantage to this is that Elk Grove citizens do not have any preconceived ideas about the matter.
- 22% were strongly in favor of a charter and 24% were strongly in favor of remaining a general law city. Mr. Kinney noted that with a margin of error of 4.2%, these answers are virtually the same.
- The younger population was 25% strongly in favor of remaining a general law city; with the older population 24% strongly in favor of becoming a charter city.
- 41% were strongly in favor of being able to vote on charter amendments, rather than leaving the formulation of laws and regulations up to the State Legislature;
- Only 24% felt it was important for council member candidates to receive at least 50% of the vote.
- Only 12% favored having the mayor take over responsibilities normally handled by the city manager.
- 37% strongly favored having council members voted on “by” district (rather than “from” district, as is currently done).
- 76% of respondents preferred that council member candidates raise their own funds to pay for campaigns (and that no city funds be used for this purpose).
- 78% strongly want a mayor that is elected citywide.
- 48% favored a seven member city council (including the mayor).
- The term for an elected mayor was strongly favored at four years by 36% of the respondents and two years by 38%.
- 50% strongly agreed that having a directly elected mayor would give residents more access to the mayor.
- 37% believed that a charter would provide more accountability.
- 41% were against becoming a charter city if it would significantly increase the cost of elections.
- After having explained charter concepts, 48% favored becoming a charter city and 41% were opposed.

Mr. Kinney encouraged the Commission to thoroughly read the verbatim responses listed in the report, as they give a clear view of the opinions of the respondents, which equate to having a 400 member focus group. He noted that many respondents expressed a concern about overcrowding and rapid growth in the city.

In response to Commissioner Sendejas-Lopez, City Clerk Blackston reported she had notified the City Council that the survey results were accessible for review on the City’s Charter Commission webpage.

Public Comment:

None.

5. Discuss and draft Charter language regarding public contracting

City Attorney Cochran reviewed draft language regarding public works contracts (filed). Ms. Cochran explained that, her focus was on defining a public work, in an effort to eliminate some of the inconsistencies that exist in state law. Section (b) describes when City staff would be used, versus going out to bid. Section (c) stipulates that it is a requirement to use publicly bid contracts for work in Mello Roos Districts. Section (d) was obtained from the City of Alameda and addresses design-build contracts for projects. Ms. Cochran noted that general law cities currently have the ability to use design-build, but only when the facility to be built would generate funds. She explained that, if the city wanted to build its own wastewater treatment plant, it could enter into a contract to design, build, finance, and operate the treatment plant with a private entity. The proposed charter language does not require the finance and operation portions, it references only design-build. Ms. Cochran advised against using a multiplier to automatically increase set amounts in the charter.

Chair Allen suggested that the City Council be given an opportunity to consider whether it wished to have a specific definition of public works contracts in the charter or to adopt these regulations by ordinance.

Vice Chair Orrock preferred that the charter be specific, rather than allowing details to be set by ordinance, noting that ordinances can easily be changed by city councils.

Commissioner Johnson recommended that the Public Contract Code be incorporated into the charter, with exceptions clearly delineated. He cautioned against creating confusion by having a charter provision that is dissimilar to what the majority of other cities use for public work contracts.

In response to Commissioner Sendejas-Lopez, City Attorney Cochran explained that the Public Contract Code is contained in many volumes; however, provisions pertaining to municipal contracting are minimal.

In answer to Vice Chair Orrock, City Attorney Cochran reported that the draft language she proposed narrowed the focus of expansion and improvements to public buildings. She removed works in estuaries, rivers, streams, and bays. She specifically stated in the language that the furnishing of supplies for any such project would also exclude maintenance and repair, because the current Public Contract Code includes maintenance and repair. She also eliminated painting of public works.

Commissioner Johnson distributed Public Contract Code sections 20160 through 20175.2(11)(p) (filed). He pointed out that there were significantly more details in the Code than what the City Attorney brought forward. He felt that before the Commission took any action on this subject, it should ask the City Council for input on whether the Council should be empowered to make certain decisions or

whether it prefers a completely new Public Contract Code as suggested by the City Attorney. He cautioned that whenever changes are made [to the Public Contract Code] there may be a ripple effect to laws or situations that have not been considered. He noted that Ms. Cochran took 12 pages of text and condensed it into one and a half pages.

Chair Allen also expressed concern about re-writing the Public Contract Code, particularly without public input. He agreed with Commissioner Johnson's position. He preferred the City of Sacramento's charter, which assigns to the city council the duty of adopting ordinances that defines public work and how it is to be handled. He pointed out that Elk Grove does, in fact, have natural waterways and was opposed to the deletions of streams, embankments, etc. that Ms. Cochran suggested.

The Commission agreed that reference to estuaries, rivers, streams, etc. be placed back into the public works contracts charter language.

Vice Chair Orrock favored a simplistic definition. He preferred that the charter, which is decided upon by the voters, and changed by the voters, was more beneficial for the City than a system where specifics are ordained by ordinance, as they can be easily and frequently changed by city councils.

City Attorney Cochran noted that a conflict exists in the Public Contract Code in reference to street work, "except" maintenance and repair, as opposed to furnishing supplies, "including" maintenance and repair. She knew of no way to make these two subsections work together. She briefly reviewed the City of Elk Grove's purchasing ordinance.

Chair Allen asked Ms. Cochran to identify the exceptions to the Public Contract Code that she made in the proposed language, to which City Attorney Cochran stated that she removed "painting" from section 1. She set the amount to trigger the bidding requirement at \$100,000. In section 3 she changed it to, "Furnishing supplies for any such project, except maintenance and repair."

The Commission agreed to decrease the amount from \$100,000 to \$50,000, as the threshold to trigger the bidding requirement.

Chair Allen recommended that the Commission review the City's purchasing ordinance in detail and reconsider this matter at its next meeting.

Public Comment:

Damon Mireski introduced himself as a union carpenter and 16 year resident of Elk Grove. He voiced agreement with Commissioner Johnson's suggestion to incorporate the Public Contract Code and outline exceptions, which he felt would make it easier for people to understand. He hoped that the charter would include language supporting apprenticeship. Mr. Mireski mentioned that he served on the Youth Master Plan Committee, which is trying to get vocational education in

Elk Grove. He questioned the City Attorney's proposal to set \$100,000 as threshold amount to take a project out to bid; explaining that if contractors are chosen who pay low wages to workers they will never be able to afford a home in Elk Grove. He believed that the charter should be written with a long term vision that could accommodate the City's needs for a decade or more without the need to make frequent changes.

6. Receive written report from the Public Information Officer regarding Charter Commission website page activity, online public opinions, speakers' bureau, and direct mail options

City Clerk Blackston reviewed the report submitted by Public Information Officer Christine Brainerd (filed). She noted that eight proposals had been received from prospective public outreach firms and asked the Commission how it wished staff to proceed. Following discussion, the Commission agreed that staff would review and rank all proposals, provide a synopsis of pros and cons of each, note whether the firm had worked for the City previously, and invite the top four to provide a presentation at the September 9 Charter Commission meeting.

7. New Business / General Announcements

In answer to Vice Chair Orrock, City Clerk Blackston reported that six applications had been received for the vacancy on the Charter Commission. The City Council would consider an appointment at its August 27 meeting.

Commissioner Johnson reported that, two weeks ago, he was invited to a neighborhood watch group meeting and provided a brief presentation on the charter concept. The eight attendees expressed an interest in voting for a mayor at large; however, they did not want a strong mayor, stating that, "*Absolute power corrupts absolutely*". They favored longer term lengths to allow adequate time for council members to make achievements, and term limits of perhaps ten to fifteen years.

Chair Allen reported that he and Vice Chair Orrock attended the July 29 Old Town Elk Grove Foundation meeting. Attendees were opposed to conducting both a primary and general election, as it would increase costs. They favored a mayor elected at large; however, they too were opposed to the strong mayor concept.

Following discussion, the Commission expressed support for five council members elected by district, one council member elected at large, and the mayor elected at large.

City Attorney Cochran clarified that at the next meeting she would bring forth draft charter language regarding the proposal to have five council members elected by district, one council member elected at large, and the mayor at large. The issue of term length, as well as primary and general elections, would also be addressed.

Chair Allen and Commissioner Johnson asked that discussion also take place at the next meeting regarding the organization of the charter.

8. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:01 p.m.

ATTEST:

Susan J. Blackston.
City Clerk