

**ELK GROVE CHARTER COMMISSION
REGULAR MEETING
CITY COUNCIL CHAMBER, 8400 LAGUNA PALMS WAY
TUESDAY, SEPTEMBER 23, 2008**

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

The Regular Commission meeting of September 23, 2008 was called to order by Chair Allen at 6:01 p.m.

Present: Commissioners – Allen, Sendejas-Lopez, Loveland, Martin, Orrock, and Rambo

Absent: Johnson (arrived at 6:07 p.m.)

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

Vice Chair Orrock led the pledge of allegiance.

2. Public Comment (on non-agenda items)

None.

3. Approval of September 9, 2008 Minutes

MOTION/VOTE:

Vice Chair Orrock made a motion, Sendejas-Lopez second, to approve the September 9, 2008 minutes with correction of a typographical error, i.e. “ethic” to “ethnic”. The motion carried by the following vote:

Ayes: Commissioners – Allen, Sendejas-Lopez, Loveland, Martin, Orrock, and Rambo

Noes: Commissioners – None

Absent: Commissioners – Johnson

Note: Commissioner Johnson arrived at 6:07 p.m.

4. Presentation by Public Works staff regarding the concept of design-build construction projects

With the aid of an overhead presentation (filed), Bob Williamson, Senior Architect, reviewed a matrix of project delivery methods. He explained that the City Council, by a two-thirds vote, can suspend competitive bidding and select an alternative method for a project. He noted that many city charters include design-build alternative methods. Under pending Assembly Bill 642, authored by Assemblywoman Lois Wolk, all cities would be able to utilize the design build project delivery method and hire a single company to both design and construct public buildings and related infrastructure. Mr. Williamson described successful design-build projects he had worked on. He stated that the California

Environmental Protection Agency project included profit sharing incentives, which encouraged contractors to complete the project on time and under budget. The Sacramento City Hall project included contract language stipulating that the developer would hire his team, including a general contractor. The developer established acceptable markups for the general contractor's profit and overhead which was included in the developer's proposal. Staff required that the contractor obtain three subcontractor bids for every subcontract awarded. The contractor was allowed to have a prequalification form so he could ensure the bidding contractors were qualified to do the job. This process ensured the City received a competitive price and best value.

In answer to questions posed by Commissioners, Mr. Williamson noted that a variation on alternative methods is to own a prototype design so that it can be adapted to sites and replicated. Mr. Williamson explained that, the more complicated a project is, the greater the options should become.

Fritz Buchman, Interim Public Works Director, pointed out that there is no "one size fits all" solution. He felt it was important to have a menu of options to fit a range of situations that projects might present.

Mr. Williamson reported that the cities of Los Angeles, San Francisco, San Jose, Sacramento, Oakland, and Long Beach benchmark their projects over \$1 million and recommend best practices. He mentioned that low bid rules make public/private partnerships difficult to achieve.

Mr. Buchman noted that the low bid does not translate into the best value if a contractor significantly underbids a competitor, and through change orders, the cost ends up above what the next bid would have been. Additionally, the low bid process does not allow staff to take into account a contractor's reputation, history, or experience.

Mr. Williamson explained that, it is difficult to build incentives into a contract, because questions arise as to who caused, and why, delays occurred. Incentives tend to fit projects where innovation is sought. He reported that the City of Sacramento has a threshold of \$100,000 before Council approval is required and the City of Long Beach has a threshold of \$250,000. Mr. Williamson suggested that \$100,000 or higher would be preferable. He favored the County's process which involves: 1) approving the project; 2) awarding the project; 3) awarding a project contingency; and 4) allowing the manager and engineer to authorize change orders for construction.

Mr. Buchman noted that facilities and maintenance work are well suited to job order contracting and he recommended that the Charter Commission consider it.

The following Commissioners offered suggested charter language:

- Vice Chair Orrock – *"City staff has the ability to present to Council alternative methods without the suspension of the lowest bid"; "Encourage*

City staff to look at alternative delivery methods and bring those for final approval by Council.”

- Commissioner Rambo – *“Council shall select a method consistent with those articulated by the American Institute of Architects”; “At the outset of a project the Council shall, upon the recommendation of the City Manager, adopt a methodology for bidding the defining cost that is consistent with a professionally accepted practice.”*

City Attorney Cochran suggested, *“The Council shall make no ordinance that precludes alternative methods for contracting for option.”; “During the time Capital Improvement Projects are being reviewed the City Manager will recommend the method for project design and contract negotiations for delivery of identified projects.”*

Commissioners asked Mr. Williamson and Mr. Buchman to conduct further research of cities that have successfully implemented various project delivery methods and return to the Charter Commission with ideas, options, and recommended charter language.

Commissioner Rambo asked that the City Attorney review legal ramifications of adding the following clause in the charter, *“The City shall make no law and no clause in this charter shall be construed to inhibit the City’s ability to partner with the private sector.”*

5. Recommendation from Charter Commission Subcommittee regarding Public Outreach Consultant Firm

Chair Allen reported that the subcommittee consisting of himself, Commissioner Rambo and Vice Chair Orrock, along with Public Information Officer Christine Brainerd and City Manager Laura Gill met to review proposals from public outreach consultant firms. A conference call was made to the two top firms, HDR/The Hoyt Company and Schubert Flint Public Affairs. These firms have been asked to submit, by September 25, a community outreach plan and flat rate retainer. The subcommittee will communicate with both firms prior to the next regularly scheduled Charter Commission meeting and will make a final recommendation at the October 8 meeting.

Commissioners Sendejas-Lopez, Johnson, and Loveland voiced support for The Hoyt Company.

Commissioner Martin pointed out that some of the initial proposals included firms who went above and beyond what was requested by customizing their proposals specifically to Elk Grove, demonstrating initiative and innovation.

The Commission asked the City Clerk to forward the two final proposals to all members of the Commission.

6. Reconsider regular meeting schedule of the Charter Commission

Vice Chair Orrock stated that City staff are having difficulty devoting adequate time to the Charter Commission, due to its meetings occurring every other Tuesday. This sometimes results in Charter Commission meetings coinciding with City Council meetings.

Discussion ensued during which it was suggested that on the fifth Tuesday of each month an off-site outreach meeting be held.

In response to Commissioner Sendejas-Lopez, City Clerk Blackston pointed out that all meetings of the Charter Commission, regardless of location, require attendance by staff and minute preparation.

City Attorney Cochran suggested that subcommittees be formed to attend the off-site meetings, which would then not require an agenda or minutes.

MOTION/VOTE:

Vice Chair Orrock made a motion, Loveland second, to conduct regular Charter Commission meetings on the first and third Tuesday of each month at 6:00 p.m. in the City Council Chamber, 8400 Laguna Palms Way:

Ayes: Commissioners – Allen, Johnson, Sendejas-Lopez, Loveland, Martin, Orrock, and Rambo

Noes: Commissioners – None

Absent: Commissioners – None

7. New Business / General Announcements

Vice Chair Orrock recommended that when Commissioners attend any type of community event, they should ask to be recognized, for the purpose of allowing an outreach opportunity.

Chair Allen stated that the first quarterly report presented to the City Council at its September 10 meeting went very well, with many of the Council Members mentioning that they have been reading the minutes and were pleased with the Commission's progress.

Vice Chair Orrock noted that comments from Council Members included preferring a "hands off" approach and resistance to interfering in any way with the direction of the Charter Commission.

Commissioner Rambo stated that he would not be present at the November 4 Charter Commission meeting.

8. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:46 p.m.

ATTEST:

/s/ Susan J. Blackston.
City Clerk