

**ELK GROVE CHARTER COMMISSION
REGULAR MEETING
CITY COUNCIL CHAMBER, 8400 LAGUNA PALMS WAY
TUESDAY, FEBRUARY 17, 2009**

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

The Regular Commission meeting of February 17, 2009 was called to order by Chair Allen at 6:07 p.m.

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

Absent: Commissioners – None.

Also Present: City Attorney Susan Cochran and Assistant City Clerk Jason Lindgren

Commissioner Johnson led the pledge of allegiance.

2. Public Comment (on non-agenda items)

None.

3. Approval of February 3, 2009 Minutes

MOTION/VOTE:

Commissioner Johnson made a motion, Sendejas-Lopez second, to approve the February 3, 2009 minutes as presented. The motion carried by the following vote:

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

Noes: Commissioners – None

Absent: Commissioners – None

4. Discuss and draft Charter language regarding the following electoral related issues:

- A. Powers and Duties of the Mayor
- B. Filling Vacancies of Mayor and City Council seats
- C. Term limits
- D. Redistricting

City Attorney Cochran noted that the draft language for items 4A through 4C was not available for review this evening, but would be prepared for review at the regularly scheduled Charter Commission meeting of March 3, 2009.

Redistricting

City Attorney Cochran presented background information regarding redistricting including: 1) excerpts from the state of California Elections Code, 2) a comparison of redistricting methodologies employed by State legislatures, and 3) the text of California Proposition 11, an initiative which was approved by voters at the November 4, 2008 General Election (all filed). Ms. Cochran noted that the text of Proposition 11 provides a template to examine the composition of a redistricting commission, and though Proposition 11 does not address local government agency redistricting, and it includes several provisions that address partisan political bodies which would not be applicable to the City, it could serve as a basis to establish redistricting provisions for the Charter.

In response to Commissioner Loveland, City Attorney Cochran clarified that redistricting commissions serve as advisory boards to respective councils, and a commission presents a district plan to their council for approval; district plans are not voted on by the general public.

City Attorney Cochran noted that actual redistricting must adhere to the federal Voting Rights Act, and language in state code and Proposition 11 paraphrases the Voting Rights Act to reinforce and maintain the rights under the Act dictating redistricting at multiple levels of government. She explained that the charter could likewise reinforce and repeat the rights of Voters Rights Act as local law.

After deliberation, the Commission asked that City Attorney Cochran return with draft charter language and legal analysis for the following elements to create a redistricting commission:

- The commission would be named the “Independent Commission on City Districting;”
- Members shall be qualified electors of the City of Elk Grove;
- Neither a member nor their immediate family, including spouses, parents, children, siblings, in-laws, and registered domestic partners, shall have held elective city office 10 years prior, and will not run for any elective city office using the district plan 10 years after redistricting;
- Members shall not have had a sustained petition for an involuntary psychiatric hold (per Section 5150 of the California Welfare and Institutions Code) in the last 10 years;
- Members shall not have had a felony conviction following 10 years from freedom from incarceration;
- Members shall not have been convicted of a crime of moral turpitude in the last three years;
- Members shall not currently be on probation or parole;
- The City Attorney shall screen all applications;
- Membership shall consist of one appointment from each Council Member, including the at-large elected Mayor under consideration by the Charter, and one applicant from each voting district shall be randomly selected from the remaining applications submitted for each Council District;
- Decision points regarding the district plan shall be Public Hearings;

- Council can only approve or disapprove of a district plan, with no ability to amend a district plan;
- If Council disapproves a plan, the Council will provide written comments to the commission stating the reason(s) for the disapproval;
- There will be a 30-day appeal period to challenge the plan, and a submitted challenge during this period is required to be submitted prior to parties commencing litigation in State court to challenge the plan;
- A decision on a district plan by Council must be made by November 2011, and a timeframe for required decision points to account for noticing requirements and appeal periods prior to approval will be defined;
- If a plan is not approved by Council, the last map approved by the commission, by default, will be considered accepted upon the decision due date of November 2011.

Commissioner Johnson requested that the decision point timeframe schedule allot the opportunity for two rejections of the district plan by Council. He observed that service time 10 years prior to redistricting will be limited for the initial district drawing effort to the effective date of acceptance of the Charter.

5. Discuss topic of City Prosecutor Position

City Attorney Cochran sought clarification for what the Commission wanted to address in regard to creating a City Prosecutor position in order to prepare appropriate materials for the April 7, 2009 meeting.

Chair Allen envisioned the position as enforcing civil municipal codes and also prosecuting local crimes within the City's legal jurisdiction. He believed there were lost revenues and a waste of Police Department resources in not diligently pursuing enforcement. He provided an example of the time required by Elk Grove Police to cite, arrest, and transport individuals to jail facilities, only to see those individuals released the next day because prosecution would not be pursued.

Commissioner Rambo cited an example of the City of Pasadena in which the City Attorney fulfills both duties of the City Attorney and City Prosecutor. Mr. Rambo believed that this issue of a City Prosecutor was based on two main principles to: 1) locally enforce civil codes, and 2) sanction and enforce criminal misdemeanors in the City.

Commissioner Loveland raised concerns on funding the position and cautioned of the potential to place a burden on taxpayers to fund a mandated position. He believed extensive financial analysis would be required to examine the feasibility of having a City Prosecutor.

Commissioner Johnson noted that the position would not have to be mandated, the charter could grant the power to the Council to create the position, leaving future budgeting at the discretion of the Council.

Commissioner Rambo noted that the City of Pasadena office operated at a profit. He agreed that the cost effectiveness in prosecuting crimes will require complex economic analysis, but believed there were numerous benefits including: 1) increased fine revenue, 2) a savings of Police Department resources in pursuing prosecution, 3) potential to become a regional resource of legal expertise to prosecute under specific areas of law for other agencies, and 4) opening availability to grant monies for prosecution. Mr. Rambo noted that if the City Prosecutor position is approved by voters through the Charter, that grounds would be established to build a case to respect the voter's will to prosecute locally.

In response to Vice Chair Orrock, City Attorney Cochran explained that if a District Attorney denied the ability of an agency to prosecute locally, the matter could be brought before the Attorney General of the State who has the authority to compel discretion of District Attorneys.

Commissioner Loveland inquired by what means the City currently enforces local codes, to which City Attorney Cochran stated that the City employs an administrative process of citations, appeal hearings and liens. Ms. Cochran noted that, currently, the City has no authority to enforce non-compliance to the administrative process, which would include prosecuting cases as criminal offences; permitting remedies for use by the City such as jail sentencing to violators.

Chair Allen asked that an invitation be extended to the District Attorney to speak on the matter of creating a City Prosecutor position in the Charter at the April 7, 2009 meeting.

6. Receive report on charter process and ability to present multiple charter measures on the same ballot

City Attorney Cochran reported that, in the case of Horn vs. Allen (1924, Los Angeles), there exists case history for proposed city charters to present alternative, multiple ballot measures on the same ballot. She noted that if this avenue was pursued there should be conditions established stating that whichever measure receives the most votes prevails, in order to reduce confusion that can occur in the instance that opposing or conflicting ballot measures both pass. Ms. Cochran referred to legal language as detailed under Section 5 of the Proposition 11 text as an example of such a provision.

Chair Allen noted that the more questions placed as measures on the ballot, the greater the overall cost. City Attorney Cochran noted that the cost for each Measure question is approximately \$10,000 with variation depending on the characteristics of any particular election and the corresponding fee schedule established by the Sacramento County Registrar of Voters.

Vice Chair Orrock cautioned against creating voter fatigue by placing too many items on the ballot. He noted that local election matters will be placed at the end

of the ballot, and the further an item is placed towards the end, the greater the number of under-votes will occur, as was seen in the November 4, 2008 election.

7. Receive report on Charter Commission budget and consider expenditure of \$500 to the *Elk Grove Community Connection* for its assistance in coordinating the March 24, 2009 Special Charter Commission public outreach meeting

PUBLIC COMMENT:

Constance Conley noted that the meeting conducted by the *Elk Grove Community Connection* (EGCC) for the Civic Center was only \$360, coming in under the budget of \$500. Ms. Conley stated that all funding for EGCC has come from the private funds of Linda Ford and herself. She noted that EGCC often works with the Elk Grove Coalition Advocating Proper Planning (EGCAPP), a group which holds fundraisers and sponsors events for candidates seeking elective office. She clarified that the accounting and finances of EGCC and EGCAPP are entirely separate financially, and upon request she could provide appropriate accounting records.

MOTION/VOTE:

Commissioner Johnson made a motion, Loveland second, to request staff to expend up to \$500 to the *Elk Grove Community Connection* for its assistance in coordinating the March 24, 2009 Special Charter Commission public outreach meeting. The motion carried by the following vote:

Ayes: Commissioners – Allen, Johnson, Loveland, Martin, Orrock, and Sendejas-Lopez
Noes: Commissioners – None
Absent: Commissioners – None
Abstain: Commissioners – Rambo

Commissioner Rambo requested a proclamation be prepared to present to the Elk Grove Community Connection in recognition of their efforts to support community engagement and participation.

8. New Business / General Announcements

Commissioner Sendejas-Lopez reported that the parameters, organization and logistics for the logo design contest, coordinated with the Elk Grove Unified School District, are finalized and the program is ready to be implemented. She noted that a Council Member had approached her on the subject of why a logo was needed exclusively for the Charter process. The Commission responded that an identifying logo aids in meeting the charge to conduct outreach and involvement in the charter process, and the contest was viewed as a mechanism to actively engage students and parents in the charter dialogue.

Commissioner Loveland noted the commitment of the Commissioners to utilize personal funds to promote the contest. City Attorney Cochran clarified that the

funds from the Commissioners for the design contest should be forwarded to Kristy Day of the Hoyt Company.

Commissioner Rambo reported meeting with Chief of Police Robert Lehner to discuss topics such as administrative suspension and parking enforcement violation issues. He requested the City Attorney return with statistics on misdemeanor cases, in particular, to examine how many citations are issued and how many actual arrests are made. He also requested a breakdown on criminal fine monies, specifically how much money is generated and which agencies receive the majority of the funds. Mr. Rambo also reported meeting with the Lions Club of Laguna Creek where he received positive feedback and interest from the group in watching the development of the Charter.

9. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:22 p.m.

ATTEST:

Jason Rolf Lindgren.
Assistant City Clerk