

**ELK GROVE CHARTER COMMISSION
REGULAR MEETING
CITY COUNCIL CHAMBER, 8400 LAGUNA PALMS WAY
TUESDAY, JANUARY 5, 2010**

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

The Regular Charter Commission meeting of January 5, 2010 was called to order by Vice Chair Rambo at 6:10 p.m.

Present: Commissioners – DosReis, Johnson, Sendejas-Lopez, Martin, Mireski, and Rambo

Absent: Chair Allen

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

City Attorney Cochran 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, Johnson second, to approve the December 15, 2009 Regular Meeting and December 30, 2009 Special Meeting minutes as presented. The motion carried by the following vote:

Ayes: Commissioners – DosReis, Johnson, Sendejas-Lopez, Martin, Mireski, and Rambo

Noes: Commissioners – None

Absent: Commissioners – Allen

4. New Business

4.1 Discuss content and format of final report to the City Council on January 13, 2010

Commissioner DosReis reported that he prepared an annotated version of the charter (filed) to be provided to the City Council as an attachment to the report that Chair Allen is drafting. Mr. DosReis felt that, if the Commission were only to present its shortened version of the charter, it would appear as if the Commission had disregarded what it was originally assigned to do. If it submitted the charter with Council amendments (that the Commission did not agree with), he believed the efforts of the past two years would have been wasted and the charter would not be based on the Commission's interactions with the public.

Commissioner Sendejas-Lopez recalled that the Commission was assigned to write a charter that the public would support. She noted that, ultimately, the City Council would alter the document to suit its' needs; however, the Commission should take a bold stance and bring forward a charter it believes in. She favored submitting the shortened version of the charter.

Commissioner Johnson agreed with Ms. Sendejas-Lopez, stating that the Commission should present a charter that is in the best interest of the City.

Commissioner Mireski stated that he did not agree with the final, shortened version of the charter.

PUBLIC COMMENT:

Norman Yamaguchi stated that, from a public standpoint, the more simplified version of the charter is preferable and he recommended that it be submitted to the City Council.

Commissioner Mireski felt that, to shorten the charter for the purpose of simplifying it, would assume that the public is ignorant. He favored placing the public works language back in the charter.

Vice Chair Rambo asked the City Attorney if there were any legal defects in the proposed document, to which she replied that, from a cursory review, she did not find any defects and noted that it leaves a lot to the future discretion of the City Council.

Commissioner Mireski asked whether any Commissioners had reviewed the letter that Chair Allen is drafting, to which Vice Chair Rambo confirmed that no one has seen it and it will be submitted to the City Council under his signature alone.

MOTION/VOTE:

Commissioner Johnson made a motion, Martin second, to submit to the City Council: 1) the report from Chair Allen, 2) the charter as approved by the Commission [without editing notations], and 3) a document containing the comments from the annotated version of the charter as drafted by Commissioner DosReis. The motion carried by the following vote:

Ayes: Commissioners – DosReis, Johnson, Sendejas-Lopez, Martin, Mireski, and Rambo

Noes: Commissioners – None

Absent: Commissioners – Allen

4.2 Review and update draft charter language

In answer to Vice Chair Rambo, City Attorney Cochran reported that, according to her research, there is usually no language in city charters regarding prevailing wage; most cities address the issue through an

ordinance. At the request of Vice Chair Rambo, Ms. Cochran described the difference between a living wage and prevailing wage.

Vice Chair Rambo stated that, if voters adopted the Commission's version of the charter, prevailing wage as required by State law would continue to be required unless, and until, the City Council enacted an ordinance changing it. He asserted that the only thing the proposed charter would change is that it would give the City Council, rather than the State Legislature, the authority to set prevailing wage. Mr. Rambo reported that research has shown in recent years that there have been legislative actions made to manipulate the calculation of prevailing wage to inflate the amount of money paid to the point where some economists argue it is not a prevailing wage, i.e. it exceeds the prevailing wage. He commented that some Commissioners who voted in favor of removing the language from the charter do support a prevailing wage ordinance. Additionally, he explained that, exempting volunteer labor and charitable organizations from prevailing wage were the motivating concerns by a majority of the Charter Commission.

Vice Chair Rambo asked each Commissioner if they had any concerns regarding the seven page shortened version of the charter to which all voiced agreement with the document as proposed, with the exception of Commissioner Mireski who expressed concern that issues of prevailing wage, taxation and fees, and protecting the City's general plan and rural area were not addressed.

Commissioner Johnson voiced agreement to add language addressing the general plan.

City Attorney Cochran reported that, under California planning and zoning law, when a general law city takes action related to land use, specific plan, rezoning, etc. there must be a finding of consistency with the general plan; however, charter cities do not have to make that finding. It does not change the general plan. The process for adopting a general plan is the same for charter cities and general law cities. She noted that, if the Commission adds a planning component to the charter, it would change the California Environmental Quality Act analysis that was done in which the charter was deemed exempt [because planning and zoning issues were not addressed].

Vice Chair Rambo suggested that the following statement be added to the charter, "*The City shall have no revenue collection authority beyond that of a general law city.*"

Commissioner Johnson expressed agreement with Mr. Rambo's recommendation.

City Attorney Cochran cautioned that such a statement would hamstring the City from being able to creatively address issues that the public would want done. She pointed out that there are already significant constitutional

protections under Article 13 of the California Constitution, which embodies both Propositions 13 and 218.

Vice Chair Rambo stated that, according to the League of California Cities, charter cities can impose property transfer taxes and general law cities cannot.

Commissioner Sendejas-Lopez pointed out that the Commission was not originally tasked with addressing the issue of revenue collection.

Commissioner DosReis clarified that, much of the language the Commission removed from the charter, was for the sake of brevity; however, some issues, such as prevailing wage, were removed because they were contentious issues and the Commission did not want the charter to fail simply because voters felt strongly about one particular issue.

Following discussion, it was agreed not to make additional amendments to the charter.

PUBLIC COMMENT:

Norman Yamaguchi pointed out that there was no guidance or direction included in Section 3.02 regarding the independent commission on city districts. At a minimum, he recommended that the words, "hereinafter "Commission"" be removed because the matter is not referred to subsequently in the document.

MOTION/VOTE:

Commissioner Rambo made a motion, Johnson second, to delete "hereinafter "Commission"" from Section 3.02. The motion carried by the following vote:

Ayes: Commissioners – DosReis, Johnson, Sendejas-Lopez, Martin, Mireski, and Rambo
Noes: Commissioners – None
Absent: Commissioners – Allen

MOTION: Commissioner Johnson made a motion to add the following statement to the charter, "*The City will not institute any taxes in which a general law city cannot.*" The MOTION DIED for lack of a second.

Vice Chair Rambo asked each Commissioner to confirm if the charter, as amended this evening, is the document they wished to present to the City Council for consideration to place before the voters, to which each Commissioner voiced approval, with the exception of Commissioner Mireski.

- 4.3 Discussion regarding further Charter Commission activity/efforts and possible action as deemed appropriate

Vice Chair Rambo noted that the Charter Commission's service would end on January 13 when the charter is presented to the City Council. He mentioned that a citizen group will be lobbying for the charter to be placed on the November General Election ballot rather than the June Primary. He thanked The Hoyt Company, City Clerk, and City Attorney for their support.

5. General Announcements

PUBLIC COMMENT:

Leo Fassler thanked the Charter Commission for its hard work and dedication.

7. Adjournment

There being no further business to come before the Charter Commission, the meeting was adjourned at 7:37 p.m. in memory of Cosumnes Community Services District Firefighter Richard Ibarra.

ATTEST:

/s/ Susan J. Blackston.
City Clerk