

**MINUTES OF THE CITY COUNCIL
SPECIAL MEETING
Wednesday, July 28, 2010**

CALL TO ORDER/ROLL CALL

Mayor Scherman called the special City Council meeting of July 28, 2010 to order at 6:05 p.m.

Present: Mayor Scherman, Vice Mayor Detrick, Council Members Cooper, Davis, and Hume

Absent: None.

Motion: M/S Davis/Detrick to convene the special meeting scheduled for 6:00 p.m. on July 28, 2010 until after the regular meeting. ***The motion passed by the following vote: Ayes: 3; Noes: 2 (Scherman, Hume).***

The meeting convened at 6:08 p.m.

The special meeting reconvened at 10:15 p.m. with all members present.

CLOSED SESSION

None.

REGULAR AGENDA ACTION ITEM/RECOMMENDATION

3.1 SUBJECT: Discuss the role of Mayor and consider the appointment of the Mayor for 2010

RECOMMENDATION:

Discuss the role of Mayor and consider the appointment of the Mayor for 2010

Interim City Clerk Jason Lindgren, provided an overview of the staff report and recommendation.

PUBLIC COMMENT

Alvin Livingston believed the issues surrounding this item were an overreaction of all parties involved, and participants should recognize the difference between customs and procedural law. He felt the various meetings held developed valuable information and believed the Council should move forward with no change of composition. He recommended formalizing rules of conduct for the position of mayor.

Linda Beattie stated the community needed and expected accountability of all members of the Council.

John Lambdin voiced support for Mayor Scherman and the Council, noting members' devotion and involvement towards the betterment of the City. He requested no change be made at the present time.

Paul Lindsay read excerpts from an opinion piece of the community group Elk Grove FIRST published in the *Elk Grove Citizen*, believing the motive of this special meeting was a political move which would erode council relations. He believed this matter was a disproportionate response to a perceived slight.

William Tolson supported Mayor Scherman, sharing his view that she was the most accessible elected official to the Elk Grove community. He felt the purpose behind this topic was political, and expressed his disappointment that this item was postponed until a later hour.

Sheryl Tolson spoke in support of Mayor Scherman, relating her belief that Sophia Scherman was "the face" of the City of Elk Grove for her dedicated presence over the years at numerous community events.

Bill Mosher supported Mayor Scherman, citing an example from the earlier regular meeting of Mayor Scherman empathizing with a speaker at the dais.

Angee Wangsgard believed there were latent issues surrounding this matter, but believed such issues were not pertinent to the business of the City, and were of a variety that make people cynical about their government. She felt that while it may be within the rights of the mayor or members to call a meeting with 24- hours notice, or to remove the mayor when members disagree, it doesn't mean it was the right course. Ms. Wangsgard closed that the mayoral office was largely ceremonial, and actions and the level of involvement surrounding the matter did not seem justified.

Mimi deVille expressed her frustration with having multiple agendas posted for the meetings conducted this day, and requested one agenda be posted that clearly communicates when items are to be heard. She believed the Council should not take any action on this matter and move forward, and felt this discussion was postponed until the end of the meeting with the intent to have fewer citizens remain in attendance.

Jake Rambo believed this item was detrimental to the reputation of the City. Mr. Rambo spoke in support of Mayor Scherman, and believed actions and treatment, by members of the Council and individual community supporters of Council members, towards Mayor Scherman, were unacceptable. Mr. Rambo believed an agreed upon process had been established to appoint the position of

mayor and vice mayor annually as a regular rotation of the five member Council, and action proposed tonight was counterproductive and disrespectful of that process.

Trena Burt expressed her displeasure at how the scheduling time of this special meeting was handled, and spoke in support of Mayor Scherman.

Tom Waltman stated his belief that Sophia Scherman deserved to remain serving as mayor. He believed this matter involved issues that were not pertinent to the business of the City, and requested the Council close this matter and move on.

Frank Maita expressed his disappointment that this special meeting was postponed until later, and believed that by shifting the meeting schedule several comments were lost in relation to this discussion, which he believed would have echoed similar comments provided tonight. He noted that Mayor Scherman's ability to effectively preside over the meeting tonight, as well as the action during the regular meeting to nominate her as representative to the League of California Cities, was incongruous with the discussion to remove her from the office of mayor.

Sue Richter spoke in support of Mayor Scherman. She commended the Council as a whole for having a history of responsibly conducting the business of the City and requested this matter be discontinued.

Council Member Hume noted the last time the Council encountered discord amongst one another at the dais it projected a poor image to the public, and potential clientele who may consider relocating business or personal interests to Elk Grove. He believed in-fighting between Council Members led to division in the community. Mr. Hume proposed the Council focus on discussing revising procedures of conduct to provide a policy structure to minimize future miscommunication, to forgive perceived, recent transgressions, and move forward with City business.

Council Member Davis acknowledged a level of pettiness surrounded this issue, but believed the action of calling the meeting reverted the City to a time he believed circumvented a basic tenet to make government accessible to the public. Mr. Davis described what he believed were practices conducted by the City, prior to Mr. Davis' election to office, to hold special meetings on short notice, and scheduled at inconvenient times, to intentionally exclude participation by the public. He noted his pledge to not let such practices occur, and believed the action of calling last week's meeting was done inappropriately, as the item of discussion was previously scheduled for the regular meeting tonight. Mr. Davis clarified he was not questioning the legal basis for the mayor to call such a meeting, but rather the intent behind the timing and the manner in which the meeting was called, which appeared intentionally disrespectful of council member schedules to the point of excluding members from discussion. From media accounts, Mr. Davis supposed the intent to

call the Wednesday special meeting was a preemptive act triggered by announcement of a Thursday meeting called by a community group which indicated it would be attended by particular, individual council members. Mr. Davis noted he was invited to the meeting by the community group, along with Vice Mayor Detrick, but he did not call the community group meeting, nor was he able to attend due to conflicting scheduling.

Council Member Cooper recollected that both when serving as mayor, and from other mayors past, before calling a special meeting the mayor would verify scheduling with other council members. He acknowledged problems in the past, under a different Council, of special meetings being called at inconvenient times. He believed individual council members could attend community meetings they were invited to. Mr. Cooper stated he did not understand the need for urgency in calling the special meeting.

Vice Mayor Detrick stated he had scheduling conflicts with three previously scheduled meetings and a family event and could not attend the special meeting, and expressed he did not sense any urgency in scheduling the special meeting. Mr. Detrick felt Mayor Scherman needed to address accountability for actions over the past six months, starting at the beginning of the year with an expenditure for legal services related to ethics violations, and including the recent scheduling of the special meeting. He believed the mayor had acted inappropriately, without the consent of the Council, and to date had not provided any explanation, nor displayed any remorse, for such actions.

Mayor Scherman read the following statement into the record:

I have served with honors to the citizens of Elk Grove, and I truly believe that Elk Grove is the greatest city to live and raise a family. First, if what I did wrong was to have a meeting, that was to gather current information regarding what steps we needed as a Council to take to protect our children from the many group homes that house juvenile sex offenders, then I cannot apologize, and I won't. If I hurt feelings, I'm sorry for that. The meeting was not held due to a lack of a quorum, but I did invite those present to stay and we could all have an open discussion with each other, including the staff that was present, without worrying about the three minute timer. Everyone stayed and asked questions for two and a half hours. The information was invaluable, and the questions enlightening. At the end of the evening comments were positive. What is happening tonight and what had occurred earlier has shed a shadow over the true purpose of the meeting for the citizens on Cheer Court. I repeat what I said that evening, that I will passionately pursue a solution to this very serious situation. No matter what the outcome of this meeting is, and I'm talking about this meeting, I will not step away from my promise to you and the citizens of this great city. These homes need to be dealt with. I know that together we can get it done. We

can get new legislation passed to address what is fast becoming a major concern to our community. This special meeting that was called by three council members should not have any reflect on what this Council does tonight. The Brown Act gives me or three council members the authority to call for a special meeting. I did call for one due to the urgency of the matter that was brought before this council on July 14, 2010, during public comment. And I stand by that decision. I would not be addressing the citizens of Elk Grove if I had not been threatened by my colleagues, quote, "Then you need to know that a movement is afoot to remove you as mayor if you do." To be threatened by anyone is serious, but to be threatened by a colleague is perhaps a Grand Jury complaint and process. I'm referencing Grand Jury Report 2004-2005, Sacramento Grand Jury summary conclusions dated February 28, 2005. And in the context of this you'll understand why I'm quoting this, "Mr. Cooper and Mr. Leary both repeatedly acted in an unprofessional, abusive and inappropriate manner with the City Manager, the City Attorney, the City Chief of Police and other members of the Council. Their conduct was intimidating towards all these parties and, in the opinion of the Grand Jury, disrupted the orderly functioning of the Council. This improper and reprehensible conduct significantly contributes to an atmosphere where their failure to observe conflict of interest requirements went unchallenged. Recommendation A-3, Mr. Cooper and Mr. Leary should cease their inappropriate behavior towards other Council Members and City staff. They and the rest of the Council should develop a Code of Conduct that promotes communication and civil interaction and eliminates abusive behavior. This Code of Conduct should be followed in all interactions among Council Members and between Council Members and City staff." The City of Elk Grove adopted a city Code of Ethics prepared by the citizens of Elk Grove on April 27, 2005. I'm very disappointed in what has become an embarrassment to our city and our employees. To them, I apologize for the behavior of this Council that has brought us to this special meeting to take action removing me as the mayor of Elk Grove. As your ceremonial mayor I will not allow tonight's action or behavior to deter me from moving forward in adopting new legislation to address this very serious issue that is increasing without the knowledge of our families. To place a home in the middle of a community without any notice is not acceptable. In closing I hope and pray that whatever is decided that we can move on and concentrate on the issue at hand, and that is to protect our children. We as parents and grandparents have that obligation.

Mayor Scherman clarified that she had apologized to Mr. Cooper specifically stating he had not threatened her. She stated that with the timing of the letter sent to call this special meeting, which included Mr. Cooper's signature, and the text message from Mr. Davis, she believed there was a connection between that letter and Mr. Davis' text message.

Council Member Cooper replied he had not seen the letter before it was sent, but still believed the July 21 special meeting should not have been called and that this special meeting was needed to address issues surrounding this matter.

Mayor Scherman stated she called the special meeting as information was being generated but not channeled. She believed there was a general confusion of where the issue stood, and requests continued to come forward from the community for the Council to take immediate action. At the July 14 meeting, the full Council directed staff to bring information back to for the July 28 meeting, but before that time a press release announced Vice Mayor Detrick and Council Member Davis were going to hold a meeting with City staff at City Hall. Ms. Scherman acknowledged from the comments that Mr. Davis and Mr. Detrick did not call that meeting, but rather it was called by the citizens of Cheer Court.

Vice Mayor Detrick clarified that the neighbors had asked him to put a meeting together, and that he called the meeting to facilitate it.

Mayor Scherman observed she was not notified about that neighborhood meeting, and stated that when she had asked Vice Mayor Detrick why such a meeting was to be held at City Hall prior to the July 28 meeting, he replied, "That's the way it's going to be." Ms. Scherman believed such a meeting excluded three Council Members in the process. She then called a special meeting using the same agenda format of what was expected for the July 28 meeting, and had no preconceptions or who could or could not attend. The City Manager had informed Ms. Scherman that Council Member Davis was out of town, and that Mr. Cooper would not be available due to prior commitments. Ms. Scherman believed she thought she had seen the vice mayor across the street at ten minutes prior to the start of the special meeting. Mayor Scherman believed members with local, prior commitments would have the capacity to arrive and officially start the meeting, but then excuse themselves to attend their prior commitments. She noted none of the Council Members returned her calls, with the exception of Council Member Davis, whom they mutually missed communications as events unfolded. Mayor Scherman believed at least a quorum could have been met to share information.

Council Member Davis surmised that the reasoning by Mayor Scherman to call the special meeting was triggered because of the calling of the neighborhood meeting scheduled later that week on Thursday. Mr. Davis confirmed he did not authorize a press release.

Council Member Cooper believed respect between Council members, and respect for individual schedules was a central issue, and believed a collaborative approach was required for the Council to effectively operate as a team.

Council Member Hume confirmed with City Attorney Susan Cochran that a motion to adjourn did not require a second as it is considered an order, which can be voted upon without a second.

Motion: M Hume to adjourn the 6:00 p.m. July 28, 2010 special City Council meeting. ***The motion FAILED by the following vote: Ayes: 1 (Hume); Noes: 4.***

Council Member Davis stated the intent of the special meeting was to face latent issues of individual members stepping past their authority to authorize action on behalf of the City. Mr. Davis believed the City could not afford to have a mayor that acted like a strong mayor, and he believed this reaffirmed the need for the voters to directly elect the mayor. Mr. Davis believed all members of the Council were one vote, action should be done collaboratively as a team, and the recent actions of Mayor Scherman were contrary to a team minded ethic and were conducted in a disrespectful manner.

City Attorney Cochran noted suggested changes made by Council Member Hume to the norms and procedures manual that for any special meeting called to add the provision that such special meetings shall not be scheduled unless the attendance of a majority of the council has been confirmed.

The Council confirmed adding the suggested provision by consensus.

Mayor Scherman stated she abided by the Brown Act in her actions. She was amenable to updating the norms and procedures manual. She added she could have approached the matter of calling the special meeting in a different manner, or handled the matter better, but acted in what she believed was the best interest of the community.

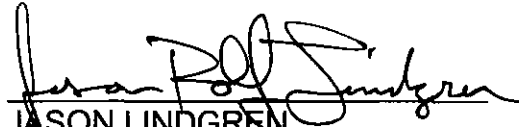
Vice Mayor Detrick agreed with Mr. Davis believing that, beyond a policy for calling special meetings, there was an issue of individual action being taken without consensus from the Council. Mr. Detrick believed there were multiple issues indicative of taking action without consensus, and cited the earlier example of authorizing the hiring of an attorney to investigate potential ethics violations.

Vice Mayor Detrick and Council Member Davis sought affirmation from Mayor Scherman that she would not take future actions that would go beyond her role as one vote on the Council.

Mayor Scherman affirmed her allegiance to the Oath of Office, confirmed that all members of the Council were equal, and stated her commitment to continue to serve the community.

ADJOURNMENT

With no additional business to conduct, the July 28, 2010 Special City Council meeting was adjourned 11:44 p.m.


JASON LINDGREN,
INTERIM CITY CLERK

ATTEST:


SOPHIA SCHERMAN, MAYOR