

MINUTES OF THE WILLOWS CITY COUNCIL SPECIAL MEETING HELD

December 5, 2012

1. The meeting was called to order at 4:02 p.m. by Vice Mayor Cobb.
2. **PLEDGE OF ALLEGIANCE:** Council Member Domenighini led the Pledge of Allegiance.

3. **ROLL CALL:**

Present: Council Members Hansen, Domenighini, Mello, Taylor-Vodden & Vice Mayor Cobb

Absent: None

4. **Public Comment:**

Forrest Sprague was hoping to get an explanation as to why there is an item on this agenda to uphold California State Law by affirming the retention of Council Member Gary Hansen to remain seated on the Council until his successor is elected and qualified. He stated that the City Attorney, at the November 27 City Council Meeting, had clearly stated that Government Code 36503 allows for this, so he wondered why the Council is even doing this if it is already a matter of fact. The City Manager addressed this item and agreed that the Government Code is existing State Statute which applies to General Law Cities. In consultation originally with the City Attorney, the City felt it was important to adopt a Resolution, basically to identify the Council Member that would be retained. They thought it was important to allow the citizens to know how it was determined which Council Member would be retained when there are three new Council Members-elect and there were three outgoing members. It was determined that Mr. Yoder would not qualify, as he did not re-run for a seat. That would still leave the two incumbents that were not re-elected who both would be stepping down when their successors were sworn into office. When two of the three Council Member-elects came to the meeting on November 27th to be sworn into office, that left a third seat yet to be determined when Council Member-elect Bill Spears had deferred his swearing into office to a later date. At the meeting on November 27th it was explained that due to the fact that the City has no Ordinances which speak to this type of situation, the City reverted to State law and Government Code 36503 and thought it was important to pass a Resolution. There was also an issue raised on whether the vote taken on this item at the November 27th meeting was valid because the Resolution was moved forward on a 2/1 vote on a 3 member panel with two members being absent. Resolutions, for purposes of State Statute, require a 3-member vote of the total membership of the entire body. At the November 27th meeting, there were not three affirmative votes, but rather a total of three votes cast. The Willows Municipal Code states that the majority vote of the City Council is sufficient for conducting business, therefore, it was agreed at the meeting on the 27th, that the motion passed. A subsequent issue was raised that the Resolution could not have passed, therefore rather than debate the merits of whether it did or did not pass, Staff simply wanted to bring this item back before the Council in order to move it along simply by motion because a Resolution is not required. This is simply reaffirming that it may be the Council's preference to abide by State law and keep a member seated until subsequently Council Member-elect William Spears is qualified to take the seat, which will take place when he takes the oath of office. Mr. Sprague suggested that perhaps this type of explanation should have been made at the meeting on November 27th so he and others don't have to wonder why a special meeting was called to essentially take an action on an issue that has already been acted on. This is the type of thing that causes public concern and makes people think that the Council may have some hidden agenda.

Rose Marie Thraikill congratulated Council Members Domenighini and Mello on their election to the Council. She then asked that if [during Public Comment] she asks a question and the Council responds with an answer, whether their answer counts toward the three minute time limit for Public Comments. Vice Mayor Cobb stated that any dialogue exchanged during public comment would be included in the three minutes and he reiterated that Public Comment is not a time for questions and answers. He added that [since this is a special meeting] right now is the time for public comment *only* on items that are on this meeting's agenda. He stated that at this time Ms. Thraikill may comment only on items that are on tonight's agenda. Ms. Thraikill then asked how she should go about getting answers to questions that she may have. Vice Mayor Cobb stated that she could go to the City Manager or that she could contact specific Council Members with her questions, but that Public Comment is not a question and answer period. Public Comment is a time for people to express their comments and not to ask questions. Ms. Thraikill then stated that tonight's agenda was not on the City's website under "Meetings Agendas and Minutes" which is where most people look to find agendas, and it was only posted on the "Community Calendar". She suggested agendas should be posted under "Meetings Agendas and Minutes" in the future. She also stated that the city's website has two external links to other websites that are not functioning. She then stated that she thinks it would be a good idea for the City to take training on the Brown Act and that the new City Attorney, Bob Hunt, conducts these types of trainings. Finally, she stated that she was concerned about the amount of money that the City is spending on Mr. Hunt's legal services.

Gail Green inquired what Government Codes 94956 and 94956.9 are. The City Manager stated that those codes are both specific provisions of the Brown Act. He explained that 54956 is a section that deals with the agenda posting requirements and that 54956.9 is specific to a closed session item and explains what is required to be listed on the agenda for that particular item.

5. Council consider upholding California State Law by affirming the retention of Council Member Gary Hansen to remain seated on the Council until his successor is elected and qualified in accordance with California State Government Code Section 36503:

Council Member Hansen announced that he would be recusing himself from this item due to a Conflict of Interest and he exited the Council Chambers.

Council Member Taylor-Vodden **moved, seconded** by Council Member Domenighini, to affirm the retention of Council Member Gary Hansen to remain seated on the Council until his successor is elected and qualified in accordance with California State Government Code Section 36503. The motion passed with 3 ayes and Council Member Mello voting nay.

Council Member Hansen then reentered the Chambers and took his seat at the dais.

6. Executive Session: Pursuant to Government Code 54950 et seq., the City Council held a closed session on the following item:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9

Council entered into Executive Session at 4:20 p.m.

7. Report out from Executive Session: The Council reconvened into open session at 5:46 p.m. Vice Mayor Cobb stated that no reportable action was taken by the Council. The closed session

did concern a Government Claim pursuant to Government Code Section 54956.9 (b) 3 (c) and that claim will be available for public inspection in the City Clerk's office.

8. **Adjournment:** Vice Mayor Cobb adjourned the meeting at 5:47 p.m.

Dated: December 5, 2012

NATALIE BUTLER

City Clerk

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