

MINUTES OF THE WILLOWS CITY COUNCIL REGULAR MEETING HELD
September 10, 2013

1. Mayor Cobb called the meeting to order at 7:01 p.m.
2. **PLEDGE OF ALLEGIANCE:** Finance Director Tim Sailsbery led the Pledge of Allegiance.
3. **ROLL CALL:**

<u>Present:</u>	Domenighini, Taylor-Vodden, Mello, & Mayor Cobb
<u>Absent:</u>	None (One Council Vacancy)
4. **Agenda Review:** It was **moved** by Council Member Taylor-Vodden and **seconded** by Council Member Domenighini to accept the September 10, 2013 agenda as presented. The motion unanimously passed.
5. **Presentations & Proclamations:** Mayor Cobb read a Proclamation named "A Day to Remember", honoring those who died on September 11, 2001, and a Proclamation declaring September 20, 2013 "National POW/MIA Recognition Day". Mayor Cobb presented the Proclamations to Barbara LaDoucer, who accepted them on behalf of the American Legion Auxiliary and the VFW.
6. **Public Comment/Written Communications:**

The following person(s) spoke during public comments:

Dan Roach, of VFW Post 1770, invited everybody to attend a 9/11 candlelight vigil & memorial ceremony that will take place on September 11 at 7:30 p.m. on the front steps of the Veterans' Memorial Hall.

Susan Parisio stated that she has recently learned that California Water Service may be doubling or possibly tripling the water rates for City residents due to a new State law which will decrease the allowable levels of chromium-6 in the drinking water supply. She stated that she hopes the Council will exercise due diligence in investigating why the chromium-6 levels are so high in Willows as compared to other cities of similar size. She hopes the Council will investigate ways in which to decrease chromium-6 to an acceptable level as to not have to incur such a significant water rate increase.

7. **Consent Agenda:**

It was **moved** by Council Member Mello and **seconded** by Council Member Domenighini to approve the Consent Agenda as presented. The motion unanimously passed and the following items were approved/adopted:

- a) Approval of General, Payroll and Direct Deposit Check Registers (26459-26509; 32740-32764; 04557-Z04590).

8. **Public Hearings:** None

9. **Ordinances:** None

10. **Items introduced by City Council or Administrative Staff for discussion purposes only:**

Council Member Mello asked if there was any update on when the audio of the Council Meetings will be restored on the City's website so people to listen to the meetings. The City Clerk stated that she has been working with the City's I.T. provider, Ray Morgan Company, and Ray Morgan Company is still trying to work with the audio web-host provider, Podbean, to resolve the issues. Ray Morgan Company is also looking into alternative programs that the City could use to post the audio minutes to the website.

Council Member Mello also announced that he would be unable to attend the 9-11 Candle Light Vigil because he has other commitments that evening.

11. **New Business:**

- a) City Council Vacancy – Council discuss options regarding filling a City Council vacancy and direct staff accordingly:

The City Council currently has a vacancy due to former Council Member William Spears' resignation. How the City Council goes about filling the vacancy is essentially a two-part question. The first question is what method should be used for the Council to go about filling the vacancy and whether to do it by appointment or by a special election. Staff has recently done some research on how other cities have filled a vacant seat and the research concluded that overwhelmingly most cities, with the exception of Charter Cities, fill their vacancies by appointment. The City Manager believes that the Council could make an appointment to fill the remainder of the term and it would be a zero cost item, whereas, going the Special Election route would cost the City likely in excess of \$10,000. There is the possibility of consolidating with the County's General Election in June of 2014 but that would mean the seat would remain vacant for a longer period of time than it was filled by former Council Member Spears.

The second question is what process the Council would like to use if they were to choose to appoint. The process of appointing is not defined by state statute and it is completely at the discretion of the Council. In the past, interested applicants could submit an application, be interviewed by a subcommittee comprised of two members of the Council, and the subcommittee would make their recommendation to the full Council and then the full Council would appoint who they believe to be the most qualified applicant. The City Manager stated that it would be his recommendation that the Council fill the vacancy by appointment, establish a subcommittee to review applications and conduct interviews and make their recommendation to the full

Council at the meeting on September 24. He recommends that the application process begin immediately and that all applications be turned in by September 18.

As far as a subcommittee of the Council, it was the City Manager's opinion that the most appropriate members to serve on the subcommittee would be Mayor Cobb and Vice Mayor Taylor-Vodden, reasons being that they are the presiding members of the Council, they are the most tenured members of the Council, they have no term conflicts with what will take place with an appointment because their terms of office will both end prior to the term of the seat that is being replaced, and they have no past election conflicts because neither of them took part in the last election so there would be no perception of a favored candidate.

City Attorney Gary Krup stated that if it is the Council's decision is to accept applications and appoint an individual to the vacant seat, he recommends that the applications state that it is a public record so all applicants are informed in advance that the applications could be disclosed.

Jeff Williams of the audience addressed the Council and asked, as it pertains to residency requirements to apply for the seat, on what date does an applicant actually have to be a resident of the City of Willows. The City Manager stated that the applicant would need to be a registered voter in Glenn County and a resident of the City of Willows by the closing date of the application process, which he proposes to be September 18 at 4:30 p.m.

Dan Roach of the audience stated that the concern he has is during the last election a clear signal that was sent to the City Council that some membership needed to be changed. His belief is that a special election, although costly, would be the most prudent approach for the Council to take with the way the political climate is within the City. He wants to be sure that everything is above board and that the change in the political climate continues.

Susan Parisio of the audience states that she understands what Mr. Roach just stated with regards to voters voting for change and she knows that a Special Election is likely outside of the current budget that the City has, however, perhaps a solution would be to involve all four members of the Council in the process versus only using the two most senior members as a subcommittee. That way the public perception is that the full Council is involved in looking at who will be an appointee before it is actually brought to the public versus the sorting out process being conducted by only two members of the Council.

Doug Ross of the audience questioned whether anybody could apply as long as they met the legal age requirement, the residency requirement and was a registered voter. Mayor Cobb stated that the Council will accept applications from any individuals who meet those qualifications. The City Manager then added that there could be some disqualifiers, such as a convicted felon, that could not serve on the Council.

Council discussion ensued. Council Member Mello stated that he agreed with Ms. Parisio's suggestion that, for transparency reasons, he would like the full Council be involved in the process, and not just the Mayor and the Vice Mayor.

Council Member Domenighini stated that he has given this a lot of thought and when he initially received the agenda he automatically thought there should be an appointment as has been done in the past. Then the more he thought about it he kept coming back to the need to respect the democratic process. Many jurisdictions will make an appointment until the next election but the City of Willows does not have that option. He stated that he would hope to see the City Council pass an Ordinance in the future that would allow for an appointment only until the next scheduled election and not appoint a person to fill the seat for the remaining duration of the term of office. He stated that this time he would support an appointment to complete the remainder of the term, along with developing an Ordinance so that the next time a vacancy occurs the appointment would only run until the next scheduled election.

Mayor Cobb stated that he understands what Council Member Domenighini is saying, but he asked for clarification from the City Manager regarding the suggested Ordinance. The City Manager stated that with reference to a new Ordinance, that is something that the City would want to seek legal Counsel on. As a General Law City, the Council has to abide by California State Statute, and the statutory requirement is that the vacancy be filled for the remainder of the unexpired term. He is not sure how the City can go about creating an Ordinance that is in conflict with State Law and the current statute. He was unclear on whether there are certain provisions of law which allow for Cities to do this and although the City Attorney was present at the meeting, the City Manager believed it would be unfair to pose that question to him this evening since nobody was prepared for the question to be raised. The City Attorney then stated that it is his recollection that State Statute required the person appointed to serve the remainder of the unexpired term. State Statute also defines the requirements in order to be a qualified applicant. He also added that if the Council wants to have all four of the Council Members involved in the appointment process, rather than a subcommittee, he knows of no exemption in the Brown Act that allows for a closed session to take place for this type of thing, therefore the Council would need to conduct the interviews in open session.

Council Member Domenighini clarified and stated that what he is saying is that it is his position to make an appointment to fill out the term, but he wants to see the City develop an Ordinance so that the next vacancy that occurs, the appointment will only be until the next election. Mayor Cobb questioned whether the City could create an Ordinance that would be in conflict with a State Statute. Council Member Domenighini stated that there is a provision within the State Election Code that specifically allows for this to be done. One thing that troubles him is that the vacancy occurred so early in the term and there are still over three years left until the term expires. He also stated that with this appointment, the Council will have two appointed members serving and therefore if another Council Member resigns from the current Council, the Council will be mandated to conduct a special election because State Law does not allow for a majority of a Council to be appointed. He reiterated that it is currently his preference to appoint somebody to fill the vacancy but he wishes to see an Ordinance created in the future. He also stated that it is his preference that the interviews of the applicants be held in open session by the whole of the Council.

Council Member Taylor-Vodden stated that she has been through the appointment process on two separate occasions and in two different ways. The first time she was appointed to a vacant Council seat she was interviewed privately by the Mayor and another Council Member, and she

found that process to be very helpful in a lot of ways. It allowed for direct interaction and for fact finding on both sides. Most recently when she was appointed to fill a vacancy, the interview was conducted in an open meeting before everyone, and she found that process to be much less helpful for the candidate and for the Council and she considers herself well-seasoned in that regard. She finds it very difficult for some people to get up in front of a lot of people and speak, as it puts an extra burden on them. She believes that process also added some audience interaction that was inappropriate to the different candidates, so she is very comfortable with having the Mayor and the Vice Mayor as a subcommittee. She feels that since they were not involved in, or part of, the last election process, that they are certainly not subject to anything that occurred during the election. Additionally, the terms for Mayor Cobb and herself are up in November of 2014 so at that time if she is re-elected or if she is not, there will then once again be only one member on the Council that is appointed. She stated that she believes going forward the fastest way possible to fill the vacancy would be the best choice and she thinks that having a subcommittee would be the appropriate process.

Mayor Cobb stated that he believes in transparency, but it was his thought, even prior to the City Manager's recommendation, that a subcommittee consisting of himself and Vice Mayor Taylor-Vodden would be the best process to use for screening and interviewing applicants. He stated that he and the Vice Mayor are not going to make the decision for the whole Council. He stated that the recommendation will be made in public and it will be up to the full Council to make the appointment. The subcommittee will merely present the whole Council with who they believe should be appointed, but they are not going to tell the Council who to vote for. He stated that this is no different than what has been past Council practice. He also stated that he is not willing to commit to saying that the Council will create an Ordinance in the future to address future vacancies. He believes the pressing issue at this time is to make the appointment and the Ordinance is something that could be discussed after a new member is seated on the Council. Right now he just wants to concentrate on how the Council is going to make the appointment this time. He stated that he is more than willing to be part of the subcommittee.

Council Member Mello stated that he is really against a subcommittee. He stated that there are four Council Members that are qualified who could all conduct the interviews and pick the right person to be appointed but he says no to a subcommittee. He stated that he is a Council Member and he has just as much power as the other members seated on the Council and he believes the Council, as a group, should pick the next City Council member.

Council Member Taylor-Vodden stated that if Council Member Mello really felt that strongly, she would be willing to relinquish her seat on the subcommittee to him because she believes that a subcommittee of members is able to make a recommendation to the full Council. She believes that the interview process being conducted by a subcommittee is the route to take and she is therefore willing to grant her subcommittee seat to him.

Council Member Mello then asked Council Member Domenighini if he would be interested in serving on the subcommittee. Council Member Domenighini stated that he is going to rest on his core value of respecting the democratic process and he thinks that the interviews should be conducted in open session.

Mayor Cobb then polled the Council on the process that they believe to be most preferable for conducting interviews. Council Member Mello, Council Member Taylor-Vodden and Mayor Cobb all opted to have the interviews conducted by a subcommittee consisting of Mayor Cobb and Council Member Mello. Council Member Domenighini held firm on his desire to conduct the interviews in open session. It was determined by a majority consensus of the Council that the interviews will be conducted by the subcommittee. Applications will be accepted from interested parties until 4:30 p.m. on September 18, 2013 and interviews will take place at City Hall by the subcommittee on Thursday, September 19, 2013 beginning at 6:00 p.m. The applications will be forwarded to all members of the Council prior to the Council meeting on September 24, at which time a recommendation will be made by the subcommittee and the Council will make an appointment and the selected candidate will be given the Oath of Office.

12. Council Member Reports:

Council Member Domenighini reported that he is unable to attend next Thursday's Transit & Transportation meeting. Mayor Cobb indicated that he would attempt to attend the meeting in his absence. He also reported that last month he attended the Orland Friends of the Library ice cream social. The Willows Friends of the Library will be holding their book sale during the first week of October. Lastly, he reported that the Library Director, Jody Meza, was successful in securing grant funding to have 3 members of Library staff sent to training and he thanked her for her efforts.

Council Member Taylor-Vodden reported that she attended a LAFCO Meeting this morning and at that meeting they appointed an outside contractor, Christy Leighton, as the new Director of LAFCO. She also reported that the City's Public Works Director, Skyler Lipski, was recently the guest speaker at a Willows Rotary Meeting and she stated that he did a very good job with his presentation and represented the City very well and she wished to thank him.

13. Executive Session: Pursuant to California Government Code Sections 54950 et seq., the City Council held a Closed Session. Pursuant to Government Code Section 54954.3 the public had an opportunity to directly address the legislative body on the below items prior to the Council convening into Closed Session.

Bonnie Pavlovich of the audience addressed the Council on this item and stated that she has attended almost every Council meeting for just over a year and she noticed that the City Manager's performance evaluation has been on the agenda four times in the last 11 months and she wonders why. She stated that she believes that the City has a man in the City Manager's position currently who, in her opinion, is doing a very good job. The workings of the City seem to be going fine. The Fire Department, the Police Department, the Maintenance Department and City Staff all seem to be working fine so she fails to understand why this item keeps coming up on the agenda without any final closure. It is her opinion that the City has a professional, competent, knowledgeable man of character in the City Manager position and she thinks that his character can be exemplified by a lot of things that went on over the past year. His character is such that he is the man that she would want to run her City. She stated that she hopes that whatever is hindering the evaluation process can be favorably resolved, both for the City Manager and the City of Willows.

Mayor Cobb addressed Ms. Pavlovich's comments, stating that he can't go into specifics of why this has appeared on four agendas, but there are ever-changing issues that are causing the prevention of the finality of this topic. Ms. Pavlovich stated that she understands and that her comments are by no means a reflection on the City Council, but she does hope that maybe she is speaking on behalf of the silent majority of citizens on giving her vote of confidence to the City's present Administrator.

Susan Parisio of the audience stated that the City Manager has always been polite and pleasant to her and she has had no dealings with him here at the City, but her question to the Council is why do they need a City Manager when we have a shrinking City. She stated that she doesn't really understand all of the job duties of the City Manager but she knows there is frustration in the public with what seems to be a rather stagnant City dynamic. If you look to Orland and to Colusa you can see growth there but here in the City of Willows there is no growth. She stated that she was of the impression and the understanding that encouraging businesses to open in the City is the City Manager's job. She does know that most of the City's workers do their jobs and they take care of their business and they know what they are supposed to do and she is not sure just how much management they need. So her question again to the Council is why do they need a full-time City Manager.

Mayor Cobb addressed Ms. Parisio's comments and he stated that he wished he could give her just one answer, but that is a very broad spectrum. He thinks it would be best at this time for the Council to all take in what she said and think on their own about her question because he thinks there would be four very different answers.

Hearing no further comments from the public, Mayor Cobb and the Council convened into Executive Session at 7:57 p.m.

- a) PERFORMANCE EVALUATION – Pursuant to Government Code § 54957 (b) (1).
TITLE: City Manager

- 14. **Report Out from Executive Session:** No reportable action was taken by the Council.
- 15. **Adjournment:** Mayor Cobb adjourned the meeting at 8:19 p.m.

Dated: September 10, 2013

NATALIE BUTLER

City Clerk

The City of Willows is an Equal Opportunity Provider