

MINUTES OF THE WILLOWS CITY COUNCIL SPECIAL MEETING HELD
September 28, 2012

1. The meeting was called to order at 3:30 p.m. by Vice Mayor Cobb.
2. **PLEDGE OF ALLEGIANCE:** Council Member Hansen led the Pledge of Allegiance.
3. **ROLL CALL:**

Present: Council Members Taylor-Vodden, Hansen, & Vice Mayor Cobb
Absent: Council Member Yoder & Mayor Holvik

4. **Public Comment:** Prior to opening up public comment, Vice Mayor Cobb announced that he would like to set some guidelines for the meeting that will help keep order and speed up the process. He explained that this is not a typical City Council meeting, but rather a Special Meeting of the City Council. That said, the Council is required to abide by certain regulations. So there is no confusion, he explained the parameters of public comment with regard to agenda items. These items are specific to the renewal or non-renewal of Police Chief Spears' contract. This item is not about the budget as a whole. While the intention of this agenda item is to determine whether or not there is a fiscal savings to the City by not renewing the Chief's contract, the Council is not soliciting feedback at this meeting on ways to reduce the City's overall budget. For example, he stated that it would be inappropriate during public comment at this special meeting to suggest the Council fire the City Manager or to close the Library or to let the City Planner go as a means of saving money. Personal attacks against city staff or Council Members are also inappropriate. If the people present cannot comply with the Vice Mayor's request, they will be asked to sit down. There should be no shouting or conversations while seated in the audience, as that is not proper decorum. It is already difficult enough for people in the back rows to hear the meeting. He realized that people may have pre-written statements that they would like to read, but he reiterated that this is not a typical "regular" Council meeting wherein members of the public can only comment on items that are NOT on the agenda, versus this "special" Council meeting, where the public is allowed to speak only specifically to the items that ARE on the agenda. He gave some examples of appropriate public comments that would be relevant to this specific topic as being something along the lines of "the city should retain the Chief because he is a good Chief and he does a good job" or "he has proven to be a good leader" or "the city would be better off spending the extra money to retain the Chief and not have a zero deficit budget". Upon concluding his comments, Vice Mayor Cobb then opened up the public comment portion of the meeting.
- 5.a) **Council will consider adoption of a Resolution to cure and correct any alleged violation that may have occurred during the regularly scheduled August 28, 2012, meeting in conjunction with item 11 (a) on that meeting's agenda which was "Council will consider providing written notice of non-renewal in conformity with the requirements of the Employment Agreement between the City of Willows and William R. Spears, Police Chief", by rescinding direction provided to staff at the August 28, 2012, meeting:**

Rose Marie Thraikill addressed Vice Mayor Cobb and she questioned the back-up report for this item because it indicated that there may or may not have been a violation of the Brown Act, however the Government Code section that is listed in the report is the cure and correct section and it does not state what the violation was. Vice Mayor Cobb referred this question to the City Manager to address. The City Manager stated that the City received a written notice which challenged the actions that took place at the August 28 Council Meeting, indicating that there could have been a Brown Act violation that occurred. Within that same letter there was a request made to retract that action. Rather than to debate the merits of whether or not an actual violation ever occurred, the Brown Act simply allows a legislative body to correct any perceived violations that may have occurred and move forward. On the advice of legal counsel, staff believes that is the best course of action for the City Council to adopt a Resolution to cure and correct any action, formally rescind the action that was taken on August 28, and then reconsider the item.

Ms. Thraikill then stated that as she understands it, the Council then believes that the public does not deserve to know what the specific violation was. The City Manager then reiterated that he does not know that there ever actually was a violation. Ms. Thraikill then argued that people must assume that there was at least one violation because the City received the notice from the lawyer. She stated that what the public wants to know is specifically what the violation was. The City Manager stated that he did not know. Vice Mayor Cobb then stated that he believed the City Manager has answered Ms. Thraikill's question and he added that the Council doesn't know what the violation is, but they are taking preemptive action and moving forward with the cure and correct.

Sergeant Carl Walters, President of the Willows Public Safety Association, read a letter reiterating the WPSA's opposition to any decision not to renew the Police Chief's contract.

Todd Miller wanted clarification about the Brown Act violation that Chief Spears' attorney accused the Council of. He questioned the Council that they claim they have no idea what that violation was, but just based on the vagueness of that, the Council still went ahead and scheduled a special meeting to correct the violation? The Vice Mayor stated that this is not a question and answer period. He stated that this is the opportunity for the public to comment on the record. Mr. Miller, by his comments, clearly portrayed his support of retaining the Police Chief.

Mike Donnelly inquired how many days Chief Spears has left on his contract. The Vice Mayor stated that he didn't have that information, but that it would depend on whether he was to be elected to a seat on the Willows City Council on November 6. Vice Mayor Cobb stated that the expiration date of the Chief's contract is December 31, unless he won the election in November, and then it would be earlier.

Keith Parrish not only spoke in support of the retention of Chief Spears, but he also reminded the Council that at the meeting on August 28 when the Council initially voted to not renew the Chief's contract, there was a fellow tea party member at that meeting that pointed out to the Council at that time that they believed there was a Brown Act violation and the person was gavelled down. He stated that if the Council had paid attention to that assertion at that time, this meeting could have been avoided entirely.

Dennis James asked for clarification of the items on the agenda and if the Council will be taking another vote to consider the renewal or non-renewal of the Police Chief's contract. Vice Mayor Cobb explained that the first item on the agenda is to take action to cure and correct the action taken at the meeting on August 28, which will then make that action null and void. The next step would be for the Council to reconsider whether or not to vote to provide the Police Chief with notice of non-renewal of his contract. Mr. James asked if the Council has already predetermined their vote, to which the Vice Mayor responded that they absolutely did not.

Vern Roberts stated that he was the individual that approached the City Council at the August 28 meeting about the possible Brown Act violation. He suggested that the City's Attorney being present at today's meeting probably would have been a good idea, because it is his understanding of the Brown Act that without specifics, the Council cannot correct and cure.

Bud Brackensick stated that he is at this meeting in support of Chief Spears, as were many people at the August 28 meeting. Even with the outpouring of support for the Police Chief, the Council still chose to do what they did, and he questioned why the people should think it should be any different this time.

Patsy Carter stated that she wishes the Council would reconsider their decision to not renew the Chief's contract. She stated that the Chief is an honorable man and a good role model for our youth. She feels it is the Council's responsibility to see to it that the citizens in the community are safe and she asked that the Chief be retained.

Lisa Hill spoke in favor of retaining the Police Chief because she believes he has done a good job implementing positive programs for the City's youth and he does a lot for the community. Since the newspaper announcement came out that the Council voted not to renew the Chief's contract on August 28, she says crime has gone up because people now know that they can commit crimes and that they won't be arrested because there is nobody to do that job.

Lynn Donnelly spoke in favor of keeping the Police Chief for all of the same reasons that everybody else had stated. She said the Council said that people can't discuss the budget during this meeting, and that people are not allowed to offer the Council a plan or ideas for a plan, even though the Council has stated that they don't have a plan. Vice Mayor Cobb responded, confirming to Mrs. Donnelly that the Council is committed in keeping public comments specific to only those items that are listed on this meeting's agenda. He reminded her that this is a special meeting and not a regular City Council Meeting. Mrs. Donnelly acknowledged the Vice Mayor's comments. Mrs. Donnelly then referred to the minutes of the August 28 meeting when people spoke in favor of retaining the Police Chief. She referred to Council Member Hansen's comment that he made during that meeting when he stated that it would be fiscally irresponsible not to seize the cost savings opportunity to not renew the Chief's contract. She stated that she agreed that it would be fiscally irresponsible of the Council not to try to seize cost savings opportunities, but she feels it is more irresponsible for the Council to not look at a position that she claims pays out a lot more money in salary each year than the Chief's does. She continued, stating "speaking of the City Manager"..., claiming to be standing on her First Amendment rights, whereupon Vice Mayor Cobb asked that Mrs. Donnelly sit down, as she was deviating from the agenda item being discussed. Mrs. Donnelly continued speaking, ignoring the request

of the Vice Mayor. Vice Mayor Cobb then declared that the Council would be taking a five minute recess. The Councilors then exited the Council Chambers.

Vice Mayor Cobb called the meeting back to order at 4:00 p.m. and once again reminded the audience of proper meeting decorum. He stated that the Council understands the emotions that are involved with this subject and they are very aware of how serious this situation is. He reminded the audience that at the beginning of this meeting he announced that the meeting would be conducted with decorum and a professional setting. He stated that if the meeting can't be conducted with decorum, that he will clear the room and continue the meeting without the public. He stated that he does not want that to happen and that he wanted to hear what people have to say, and having said that, he re-opened the Public Comment.

John Hursey stated that he has concerns over the fact that every comment he has heard at the meetings, everything he has read in the papers and has heard in the community has been in support of retaining Chief Spears. He questioned where is the priority of the majority of the residents of Willows?

Stephanie Southam asked if the Council has ever actually publicly acknowledged the Police Chief for all of the things he has done for the City. She stated that she feels that the Chief really deserves more credit than he is being given. She stated that she has lost all respect for our city leaders and as a result of the decision made at the August 28 meeting it has come to her attention that at least one family in this community is planning on packing up and leaving. She stated that she is not sure if she wants to live in a City where there is no unity between the City Officials, Law Enforcement and members of the public. She said that the public needs to be heard. People need to pull together, listen to each other and make a decision. The Council should listen to suggestions and don't just wash them away like they don't matter. She stated that she believes Chief Spears is the greatest asset to the community and she believes that the Council sees him as disposable.

Jeff Williams stated that he didn't see the agenda for tonight's meeting posted on the City's website. He stated he credited the City Clerk for her emailing the agendas for this meeting to the agenda distribution list, but that he didn't receive it until yesterday in the late afternoon. The City Clerk acknowledged that she is responsible for posting agendas on the website and it was strictly an oversight that the agenda was not posted there. The City Manager then explained that perhaps due to the brief window of opportunity that staff had yesterday in order to get the agenda prepared, put together, and published 24 hours in advance of the meeting as required by State law, he acknowledged that there could have been a step missed in not posting the agenda on the website. He stated that it was an oversight. The agenda is required to be posted at City Hall, noticed to the newspapers, and distributed to persons that specifically request a copy so he believes all of the legal requirements were met to announce the meeting. Mr. Williams explained that he didn't want to cast blame, but he was just curious why it hadn't been placed on the website.

Forrest Sprague voiced his support of retaining Police Chief William Spears. He also stated for clarity purposes, that the agenda for today's meeting stated "Pursuant to Government Code 54956, the agenda for this meeting was properly posted...etc." He stated that the Government

Code Section cited specifically does say that the agenda will be posted on the internet website if the local agency has one, which Willows does.

A gentleman, who did not state his name, addressed the Council and stated that he would like to be the first person, hopefully in a series of additional people, to say "please retain Chief Spears". Another gentleman, who also did not state his name, stated that he believes in his heart that everyone on the Council knows that this is a travesty. A woman, who did not state her name, asked the Council to please retain the Chief. Another unidentified woman also asked the Council to please retain the Chief. Another gentleman who did not state his name, but who Vice Mayor Cobb addressed as 'Mr. Brackensick', stated to the Council that he knows this has been a tough time for all Council Members and the decision that was made to not renew the Chief's contract at the last meeting was unanimous. He stated that the Council has seen the public and listened to the public on two occasions. He stated that he didn't think the three Council Members present at tonight's meeting have any ulterior motives or agendas. He stated he does believe they are getting some bad guidance, and he just wishes that they would listen to what the people who put them on the Council want. Sometimes what the people want, may not be the best fiscally, but if this is how the Council is going to chop dollars and cause a lot of unrest, he doesn't believe it is worth it, and he encouraged them to reconsider their last vote and retain the Chief.

Karen Roberts stated that she would like to see the Chief retained. She stated she believes the Council is not speaking as the voice or the public that elected them and that they do not respect what the public has to say. She stated that the public no longer has trust in the Council.

Rose Marie Thrailkill stated that she is asking that this meeting be cancelled because it is being held in violation of the Brown Act pursuant to Government Code 54956, in that the agenda was not posted on the Agency's website.

Monty Carter stated that he is in favor of retaining the Chief.

Council Member Cobb then closed the Public Comment portion and he then asked what the pleasure of the Council was. It was **moved** by Council Member Hansen and **seconded** by Council Member Taylor-Vodden to adopt a Resolution to cure and correct any alleged violations of the "Ralph M. Brown" Act during the regularly scheduled Council Meeting held August 28, 2012 and rescind actions taken to provide notice of non-renewal in conjunction with the terms of the employment agreement with William R. Spears, Police Chief. The motion passed unanimously.

5.b) Council will consider providing written notice of non-renewal in conformity with the requirements of the Employment Agreement between the City of Willows and William R. Spears, Police Chief.

- Before moving on, Vice Mayor Cobb stated he would like to give Chief Spears the opportunity to make a statement. Chief Spears stated that he was once again humbled by the people who have come out in support of him as the Chief. He wanted to point out to the Council that by their eliminating him from the Department, they are not only removing a Chief with forty years of law enforcement service and experience, but they

are also removing a member of the patrol force, as he has gone out on many calls for service along with his Officers. As he pointed out during the August 28, 2012, meeting, he stated that other than the 15 percent wage deferment discussion, no other discussions ever took place with him regarding any other concessions or any other actions that could be taken. He didn't feel it was his position to have to go to the City and offer money back. He stated that there was no discussion, no negotiation, and as of the August 28 meeting, no renewal of his contract. He stated that even now, he is still open to negotiating a new contract to continue to serve as the City's Police Chief. He stated that at the meeting held on August 28, he made a comment to City Attorney, Gary Krup, and asked him if the Council decided not to renew his current contract, would the contract still be open for new negotiations. The Attorney stated that he didn't see why not. At the very end of that meeting, and after talking to the City Manager, the City Attorney told Chief Spears that there may be a distinct possibility that a new contract could be negotiated. Chief Spears asked Vice Mayor Cobb if the Council chooses tonight not to renew his contract, is the Council open to negotiations? The Vice Mayor stated that would not happen because he believes it was the Council's decision the last time to not renew the contract, which pretty much ended the negotiation period. He stated that whatever decision that is made by the Council tonight would be final. Council Members Taylor-Vodden and Hansen agreed, stating that this was strictly a fiscal decision in order to begin to try to protect City reserves. The non-renewal of the contract would be a significant cost savings to the City. The decision made tonight will be made strictly based on the City's fiscal situation, and not because there is anything personal against the Chief, who they have had cordial and friendly relations with. Additional discussion ensued between the members of the Council and Chief Spears, and once all discussion ceased it was **moved** by Council Member Taylor-Vodden and **seconded** by Council Member Hansen to direct staff to provide written notice of non-renewal in accordance with the requirements of the Employment Agreement between the City of Willows and William R. Spears, Police Chief. The motion unanimously passed.

13. **Adjournment:** Vice Mayor Cobb adjourned the meeting at 7:55 p.m.

Dated: September 28, 2012

NATALIE BUTLER

City Clerk

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