

SUBJECT: PROCESS FOR APPROVING CITY PROCLAMATIONS

SOURCE: City Manager

COMMENT: At its meeting on July 16, 2013, the City Council approved a process by Minute Order to define the procedures whereby City Proclamations would be approved. The Minute Order was as follows:

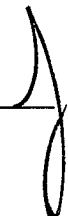
By motion of Council Member Shelton, and second by Council Member Hamilton, all Proclamations shall require three affirmative votes of the City Council. All Proclamation requests shall be considered for approval on the Council's Consent Calendar of the Agenda, which if approved would be issued at the next available City Council meeting.

Staff has attempted to follow the Council's action to require that all requests for Proclamations be submitted for Council's approval prior to their being granted. For example, at its meeting on August 20, 2013, the Council approved on the Consent Calendar a request for City Proclamation for September 2013 as Library Card Sign-Up Month, which will be issued at the September 3, 2013, Council meeting. However, at least one Member of City Council was of the understanding that the Council's action did not modify the responsibility of the Mayor to first screen all requests for City Proclamations that the Council would consider on the Consent Calendar. The Mayor did not screen the Library Card Sign-Up Month Proclamation request prior to the Council's consideration.

RECOMMENDATION: That the City Council consider the process for approving City Proclamations, and provide direction as may be necessary.

ATTACHMENT: Transcript: July 16th City Council Agenda; Item #21

C/M



Item No. 19

SCHEDULED MATTERS

21. CONSIDERATION OF THE PROCESS WHEREBY CITY PROCLAMATIONS ARE APPROVED

Lollis: Thank you Your Honor. This item comes before the City Council this evening as the City Council approved Councilman Shelton's request that the Council consider a process, or the process whereby city proclamations are approved. As the staff report indicates that there is not a defined process, that establishes by which proclamations are approved. However, there has been a long standing, as I refer to as, practice where they Mayor does receive all request for proclamations and then been subject to his or her approval. Staff did some preliminary review of what other public agency practices and procedures are. The predominant practice is similar to what the City of Porterville has, in that generally it is the Mayor who does receive requests for proclamations and approves them. Some agencies have codified this in writing where there are formal policies that do reflect that, but there are different processes as well. There are agencies that consider proclamations as part of their consent calendar where they are reviewed by the governing board and by the majority vote would be issued as part of the consent calendar; but as stated, the prevalent practice, and I know the City Attorney has also done some work on this behalf as well. So, as authorized by the Council that this is submitted back to the City Council for further discussion.

Shelton: Well, it's my item. I am gonna make an analogy here. I had a friend, a long time friend named Tim Beatty. He is a world champion drag racer. Council Member Hamilton knows him real well also. We got into a discussion one time about racing back in the 60's, and he told me that there are just two kinds of rules. One rule for racing is go as fast as you can. All the rest of the rules are for safety, and every rule for safety is written in a tombstone. That means that no matter how well it is planned at. No matter how well the rule book is written to cover every contingency, something happens that no one ever thought would happen, and end result someone gets hurt. That's kinda what happened here. Something that no one ever envisioned happened and as a result a lot of people got hurt. So now it's time to fix the rule book. I'd be remiss if I didn't correct something the Mayor said a minute ago implying that this was a proclamation like every other proclamation of the hundreds that she has read or signed. It's the only proclamation that I have known that didn't have at least three signatures on it. So, in all the hundreds and thousands of proclamations that have been issued by this town it's the one that didn't have the support of at least a majority of the Council. Now I'd like to tell a story that we don't even go to lunch without getting the consensus of a majority of the Council, so I do find it strange that this is the one part that somehow is inferred that it wouldn't require a consensus of the Council. My solution to it is so obvious, and so democratic that it

seems silly to even have to recommend it; but before I make a motion I would like to know if anyone else has any opinions on it.

Gurrola: Does anyone else wish to say anything?

McCracken: Your Honor?

Gurrola: Vice Mayor

McCracken: Since I have been on the Council I have noticed a change in the way proclamations have been put out. When I came on the Council proclamations were signed by the Mayor. Subsequent to that it's now we have the council members sign the proclamations. Well, I'm not certain, but when the Mayor was on her previous term, as far as I can remember the proclamations had always been signed solely by the Mayor. I believe that, if I'm not mistaken, I think that Mayor Irish was the one that really put in the idea that the council would sign the proclamations. That came about, gee I think that was when Council Member Shelton and I were, I was re-elected Council Member Shelton was elected. Proclamations in my experience have never been voted on by the Council. One thing that I would like to remind the Council on is that there is already a rule in place if the mayor takes some action that the Council disagrees with, all it takes is one council member to move to appeal the decision, a second council member to second the motion, and then a majority vote overrules the mayor. That rules been in effect for, before the 1900's, so we do have a rule if that's what people want. Second thing is to remember, for the Council to remember is that we have a secondary opportunity in that is when we select the member of the council that will serve as the chair. It is part of our responsibility when we select that person to pick a person who is going to be able to handle the ceremonial functions of the mayor in a way that they can live with. Councilman's asking for my input, or wants to hear other council members input. It's worked for over a hundred years. I don't see a reason to change it in this case.

Shelton: Okay, but...

Gurrola: Any other Council?

Shelton: Yeah, I just...you know it worked for a hundred years because no mayor ever before decided to take it upon themselves to do something in complete disregard for the other councilmen. As you said you were on here, do you ever remember a proclamation that wasn't supported by at least three councilmen that was ever read?

McCracken: Yes.

Shelton: Okay. Really? Which one?

McCracken: I remember several sitting in the audience when the Mayor at the time (inaudible) had approved a resolution, or I mean a proclamation that the Council was opposed to. I as, sitting as a councilmen, I have opposed resolutions.

Shelton: I'm sorry proclamations. Have you know any...

McCracken: Proclamations. I am sorry. Proclamations.

Shelton: You know of other majorities that have opposed proclamations?

Gurrola: Other majorities of the Council?

McCracken: I can't tell you that because in my...

Shelton: Well I am going to answer for you and the answer is no.

McCracken: Well...

Hamilton: I don't care about the history or any of that. The problem that I had with this right off the get go was it did become the Mayor's proclamation. She was told there was no support from the rest of us and she chose to do it anyway – plain and simple. On a Friday said, "Put it on anyway"; and she was absolutely told there was no support from us. Okay? Told her she was brave at the time if that was her choice. I think it was wrong. I still think it was wrong. I think that we are sitting here tonight trying to correct an action that didn't have any majority that believed in it.

Shelton: And that's my point.

Hamilton: We wouldn't be here if the Mayor had listened to the advice given to her.

Shelton: And that's my point. It's an (inaudible) system. Before I go on, Council Member Ward do you got anything?

Ward: Well, I mean my big thing is that. At least while I have been on here the Mayor is selected from the body of the council, and has always respected the members of the Council because they speak on behalf of the Council. There have been times when I have been asked to speak to the public or whatever else, and I decline because that is not my role. My role is to let the Mayor or, if the Mayor is unable to, let the Vice Mayor speak on behalf of the Council; and I believe that that's the Mayor's primary role. There are very few roles that the Mayor has. That is one of them, so I agree that what bothers me is essentially by her own words she was

putting forth her own ideology. Social engineering to promote something she believed in even though she knows that the other Council members, at least at the time were opposed. I also have a problem with the Council Handbook states that if you want to put anything on the Agenda it has to be done before noon on Monday. When I wanted to put an item and I missed the deadline by an hour and fifteen minutes I had to go before the Council and ask permission to put it on the Agenda. Apparently the Mayor doesn't have to do that. The other things is the proclamation wasn't even written until Tuesday, or until the day of the Council meeting, because I asked for a copy as soon as it came in; because people were like, "hey what is your position?" and I said, "well, I haven't seen it so I have no idea." You know? One way or the other, so I have a problem with that as well. She is agreeing to put things that she clearly knew we were going to be controversial, clearly knew most likely wouldn't have the support of the Council; and she decided to go through it. Put it on when I don't think the Council Handbook gives her the power to do so, which again would be an abuse of power. Because she is a council member just as well as everyone else, expect in the acting special requirements of the Mayor. So I have a big problem with that because, yeah, it's just unprecedented. To me it's something that has never been done before, at least while I have been on here. And so, and I think that is why I feel so strongly about it. Is that if the Council, you know, can't...everything that happens in the City can be done by the Council of whatever, and um, for proclamations to be the one exception, when in reality she is proclaiming on behalf of the City, which have five duly appointed leaders, the Mayor being one who is selecting from the body of the council by the majority of the council. It just sticks in my craw.

Gurrola: I want to make sure I correct you. When I received the proclamation by e-mail I read it. I didn't just say yes to a proclamation without seeing it, and so, just a moment. So I looked at it. I sent it back. Look at what I usually do, and said okay, is there anything foul in there? Anything, you know? No. Has it been recognized as a national, state proclamation? Yes. Is it an organization? Is it any of those things that I generally look at? And it's (inaudible) the acceptance. It was nothing other than that. I was astound when I walked in on Tuesday at the number people. Call me whatever you want, but I thought we were ready in the city of Porterville to accept. So, when that proclamation went through I believe you requested an item to be placed, and because that item was placed on the Consent Calendar, then the proclamation went through. There have been other proclamations that have not been on the Agenda. So you can point fingers but me, but don't point those things that are not correct.

Ward: Actually what I said was correct. I didn't get to see the proclamation. I asked the City Manager to see the proclamation as soon as he received a copy of it. He didn't receive it until Tuesday, so...and, it was in violation

of the Council Handbook. You are not allowed to add anything to the Council Agenda after noon on Monday. So, I didn't add anything to the Council Agenda afterwards. Council Handbook says that I can't, so again, don't point fingers if things aren't correct.

Gurrola: I am not going to belabor it anymore.

Shelton: I don't want to do that either.

Gurrola: Let's talk about the process. What is it that you want in this process?

Shelton: I want to fix it Virginia, so someone else doesn't abuse it.

Gurrola: I'm not abusing it, and I resent that. I did not abuse this power.

Shelton: Virginia...

Gurrola: I have full respect for this community.

Shelton: Apparently not for my opinion.

Ward: Did you prepare two proclamations? One with the Council signatures and one without? Yes or no.

Gurrola: Yes.

Ward: Yes you did, and why did you do that?

Shelton: Because you knew we weren't going to sign it.

Gurrola: Because I wasn't sure at the time that that proclamation went through, and then I said –

Ward: And as the President of the Council, who represents the body of the Council, you should have done a pause and said, "you know what?"

Gurrola: Okay. I didn't do the pause. I did the proclamation. I stand by it. Go on with the process that you want to discuss and how do you want to fix this since I am the only person in the City Council that's ever done anything for individuals in this community. So go ahead. What is the process that you want to put forth?

Shelton: Hmph. You're the only person that has...

Cheers and applause ensued.

Gurrola: I am not going to have the clapping and everything else.

Shelton: You are the only person huh? I guess the rest of us aren't doing nothing up here.

Gurrola: No. I said the only person that has made a mistake.

Shelton: You didn't say that.

Gurrola: Whatever.

McCracken: Your Honor, Point of Order. Our discussion is a process for approval of proclamations. Can we get back to it? Stay away from the personal accusations and back and forth. That is not what we are here for on the Council. We are here to consider the process whereby City proclamations are approved. We either find a process or we go on the way we are.

Shelton: Thank you Pete. Thank you.

Gurrola: Thank you for bringing us back to focus again, and I apologize.

Shelton: The problem is I have to make a case for why it needs to be changed. In this case it's because it has been abused.

McCracken: No you don't.

Gurrola: The case has already been made, so let's go forward.

Shelton: I'm glad you surrendered that point.

Gurrola: I'm not surrendering let's just go forward with this and stay focused.

Shelton: Alright. Before, it's pretty easy. Anybody else got any input before I make a motion?

Hamilton: I keep on hearing everybody talking over each other, so now...I'll wait.

Gurrola: Do you have a motion?

Shelton: Excuse me.

Gurrola: No, wait a minute. I'm the Chair still. I'm the Mayor. So...

Shelton: So, do you have a motion?

Gurrola: No I don't have a motion, but stop cutting me off. So, what is it that you

want to motion? Motion it?

Shelton: It's an easy, it's an easy, it's an easy statement, and pretty self evident. All proclamations shall require the support of a bare majority of the City Council.

Hamilton: Second.

Gurrola: I have a motion. Can you please repeat it?

Shelton: All proclamations shall require a bare majority of the City Council.

Lew: Verification.

McCracken: Your Honor, for clarification.

Lew: Do you want me to ask it or are you going to ask it?

Shelton: Well, and...

Lew: Are you asking for the entire body or a quorum present at a meeting? Or how are –

Shelton: Naaa, I don't even want to do that. I want to do three. If you can't get three then you shouldn't. If only three show up then you have to have –

Lew: Then you would say three affirmative votes.

Shelton: Yes. A bare majority, not just what's present. And also, and that can be done since its not official action it can be done by Consent Calendar. It can be done by polling if that can be allowed. All we are going to do is just slow up the process.

Lew: If you are going to have a Council decision, even if it's not...Brown Act basically says, any decision need to be Brown Act.

Shelton: The end result of this now is it's gonna –

Hamilton: Bring it a week before.

Shelton: Yeah, you are going to have to bring it like a month before to get it on there, but we gotta do that now because someone decided to take it upon themselves to do it their own way.

Hamilton: We gotta do it now.

McCracken: Your Honor just for clarification, and possibly slight change in the wording of your motion. You indicated you wanted at least a three vote to approve a proclamation. Do you want any consideration of when this is brought? Is this put on the Consent Calendar? Is it, how much in advance? I think if we are going to adopt a process –

Hamilton: It would have to be on at least the meeting prior to the proclamation.

Shelton: This is the problem. If it is an emergency proclamation it is going to be tough now without getting it on there.

Gurrola: Yes.

Shelton: But it's the price we got to pay.

McCracken: It's going to be very difficult to act upon a proclamation as an emergency motion, is that not correct?

Shelton: Absolutely correct.

Lew: If it's truly an emergency as defined by our Charter we'll be able to add it without the 72 hour Brown Act. I think you can still apply the basic Brown Act principles without having to get into all that minutia in the policy.

Shelton: It's just going to take a lot longer to get proclamations now, but that's what we gotta do.

Hamilton: Call for a vote.

Gurrola: Do I have a second?

Shelton: Yeah, he seconded. Any more –

Hamilton: I already called for the vote.

Gurrola: Vote please. Motion carries 3-2.