



**MINUTES
SPECIAL MEETING OF THE
DIXON CITY COUNCIL**

OCTOBER 3, 2011

1. **CALL TO ORDER**

The Special Meeting of the Dixon City Council was called to order at 6:05 p.m. in the Council Chambers by Mayor Jack Batchelor, Jr.

2. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was let by Mayor Jack Batchelor, Jr.

3. **ROLL CALL**

Present: Councilmembers Dane Besneatte, Thom Bogue,
Vice Mayor Michael Ceremello, Mayor Jack Batchelor, Jr.

Absent: Councilmember Rick Fuller

4. **PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

4.1 Dave Scholl reported this year's Lamb Festival was well-attended, raised three times the amount of money for vendors, the Rotary sold 1,000 pounds of riblets, and the Council should consider attending future festivals.

5. **WORKSHOP REGARDING PROPOSED "SUNSHINE ORDINANCE"**

a. **Introductory comments from:**

i. **Ourania Riddle, Solano County Taxpayers Association and Ordinance proponent**

Ourania Riddle reported that Terry Franke was delayed in traffic and would be arriving shortly. She introduced the proposed ordinance which goes beyond the minimum requirements of the Brown Act, and reported it was derived from her experiences with the lack of government transparency over the years, ordinances from other cities, and extensive research. She noted democracy and the representative form of government require thoughtful and meaningful public participation, timely access to the same information provided to public officials,

and the ability to actively comment, under a friendly government atmosphere. Trust in government has been declining and the Brown Act and Public Records Act do not go far enough. It is common knowledge that the government does not welcome transparency and the people do not yield their sovereignty to the people which serve them. She recommended adopting the ordinance, acknowledged it may not be perfect but should also be considered a starting point for discussion, and should enable compromise for fair and equal information.

ii. Terry Franke, General Counsel for Californians Aware

Terry Franke had not yet arrived at his scheduled time in the presentation, so Michael Dean spoke first.

See Minutes on Page 4.

iii. Michael F. Dean, City Attorney

Michael Dean, City Attorney, reported that the current governing documents for the City of Dixon are the Ralph M. Brown Act, the Public Records Act, the Political Reform Act, and Conflict of Interest Code, and noted any writing is a public record that can include paper documents, photos, audio and video tapes and CD's, but some personnel and litigation are generally excluded. He noted transparency is a heavily regulated area in the State of California and has been for a long time. A handful of cities have adopted stronger ordinances, those cities are much larger, the ordinances are not as extensive as Ms. Riddle's proposed ordinance, and it is unlikely that a city of Dixon's size can strike a better balance between transparency and confidentiality than has already been done by State legislature.

Mr. Dean noted he could not support adoption of the ordinance unless there is something that specifically needs to be addressed, it would result in excessive attorney time, add time and cost to the business of the City, heavily impact City Clerk staff who are already 100% occupied, and found the ordinance to be ambiguous in many respects.

Mr. Dean discussed the resulting difficulty with the public placing agenda items, loss of control over the flow of City business, small items that would impact necessary agenda items, difficulties with taping closed sessions, violations punishable as crimes, and that an independent sunshine committee would place limitations on the City Council and make the only elected body subservient to a body that is not elected.

Mr. Dean noted there is nothing to be corrected at the moment, the City is now doing a very good job of transparency, and earned an A grade from the Newspaper Association, which was the highest of any City in the State of California.

b. Public Comments

Mayor Batchelor asked for public comments.

George Guynn, Jr. noted the public is paying the bills and should have oversight of their money, it is better to err on the side of the public, and the ordinance is better than what currently exists.

Richard Giddens felt the City Attorney's argument was intellectually vacant and constitutionally flawed as to why the ordinance should not be adopted, and noted the public wants results, not excuses, and are sick of them.

Chuck Kingeter recommended amending the agenda to include the signature of the person who posted it. He discussed the definition of open government, that people have difficulty in getting to meetings, we have moved from the industrial age to the informational age, presentations should be properly documented, and cited the fact that the Grand Jury investigated Dixon's Treasurer in 1999.

Dennis Allen discussed sovereignty, that people of the State do not relinquish it to the people that serve them, the Founding Fathers intended the people to run the government rather than politicians, and while not saying the City is corrupt, he supported the proposed ordinance and noted people rarely even come to meetings, let alone file complaints.

George Barich, publisher of a Cotati newspaper and former Cotati Councilmember, discussed deficiencies in the City of Cotati, noted he was impressed with the amount of time allocated to speakers in Dixon, and hoped to use Dixon's ordinance as an inspiration for his town.

Ryan Wold worked in government for twenty-five years, noted that a few regulations can heavily impact staff, and suggested Dixon adopt some form of the ordinance that addresses specific problems and remove the redundancies.

Dave Scholl noted the City is not the Council and staff, the City is the people, and staff are the people's employees, the City Attorney wrongly sees his responsibility as protecting the Council from the public, and the people's right to know is the reason for the ordinance. He felt the work product exemption should exclude anything that has been given to a councilmember, the public has the right to know why City government made their decisions, and disagreed that there can be no better balance than State law.

Earl Heal noted the City Attorney's primary defense is that the ordinance duplicates State law, there is no problem with doing so, and it is better to act when there are no conflicts with a cooperative Council.

Joe Maynard reported he recently requested information from the Dixon Public Library and displayed a page with many redactions, noted the City could raise the bar for the entire community, and Mr. Dean's suggestion that democracy is too expensive for Dixon is onerous.

Ginger Emerson reported that her recent review of public records showed that some records are no longer being generated, specifically in Planning files and applications.

Byron Chapman noted the public does not just want to have the answers, they want to know how the answer was derived and the ordinance will help achieve that.

Russ Cayler was bothered by the number of out-of-towners present to tell Dixon how to structure their ordinance, felt the oversight committee would establish another layer of government that would enable outside activists to regulate the City, and the ordinance requires additional documentation that will give reduced staff more to do and increase man hours that the people will pay for.

Herb Cross noted interesting arguments on both sides and all concerns are valid, but the problems, roadblocks, and restrictions go back to the 1980's and 1990's and do not exist now, if a Councilmember is going to violate an ordinance more laws will not change that, and some citizens will not be content with decisions even if they are made correctly because it is the nature of the business.

Stephen Sikes noted the citizens elected the Council to do the job, they've always received them well, and the ordinance is a waste of time that hits the people in the pocketbook.

Kay Cayler reported about serving on the City Council, Planning Commission, and a County Commission and found that everyone provided disclosure, she took issue with comments that all government is corrupt, and noted the ordinance covers everything but touches nothing in particular. She noted Council's minds have been changed by the public many times, it is not difficult to get to meetings in Dixon, and technology has improved transparency significantly.

Mayor Batchelor paused public comments to enable Terry Franke to speak.

TAKEN OUT OF ORDER

5. a. ii. **Terry Franke, General Counsel for Californians Aware**

Terry Franke, General Counsel for Californians Aware, apologized for his late arrival, and noted the three sets of rules to consider are existing State statutes, the San Francisco Sunshine Ordinance, and subsequent ordinances adopted throughout the Bay Area. He noted Ms. Riddle's ordinance contains elements of them all, duplications of the Brown Act in the ordinance are for emphasis and cross-reference, desirable extensions of the Brown Act from the San Francisco ordinance are in the draft, as are refinements by other cities, and any resulting gaps or vagueness can be addressed before the ordinance is finalized.

Mr. Franke addressed the City Attorney's concerns regarding administrative burdens and costs and recommended the City of Milipitas be consulted as a source regarding their experience and relevancy. He also reported he was unaware of legal liabilities or outright conflicts with other laws and offered to

respond if the City Attorney could provide concrete examples of those instances.

Mr. Franke confirmed that the draft ordinance is entirely Ms. Riddle's work and he holds no authorship except where she has borrowed language from the San Francisco ordinance, and that his reactions are directed almost exclusively to the comments of the City Attorney.

Mayor Batchelor resumed public comments.

Dennis Allen took exception to comments made about outsiders speaking for Dixon by noting he has attended many events in Dixon, has local interests, and resides in the County. He noted people are very upset about what is going on in most government bodies, but found his ability to speak in Dixon refreshing if Dixon meetings are conducted in such a manner.

Dave Scholl noted a need to address specific details of the ordinance and discuss valuable comments made by the City Attorney. He commented on many sections of the ordinance and recommended amendments. He recommended the Council approve the ordinance rather than allow it to be placed on the ballot since any future amendments would be more difficult if it becomes a ballot issue.

Mayor Batchelor noted the ordinance is very detailed, future discussion would address individual items, and he asked Mr. Scholl to summarize his concerns at this initial meeting.

Mr. Scholl noted he would provide copies of his specific comments to Ms. Riddle and Mr. Franke.

Chuck Kingeter discussed datasets, crime reports, student participation, and the need to hold onto values.

George Barich noted he could be a resident of Dixon by the time a decision is made and there is benefit to listening to outsider experiences.

The Council recessed for break at 8:20 p.m.

The Council reconvened at 8:30 p.m.

b. Council Comments/Discussion

Vice Mayor Ceremello noted the ordinance could not be passed at this meeting, another workshop would be necessary to reduce the ordinance by a line item review, he found the discussion very beneficial, it was inappropriate to discourage outside input, and it was more appropriate to determine what shouldn't be public information rather than what should be public. He noted arguments during closed sessions should be released after decisions are made, disagreed that recording closed sessions would cause participants to act differently and would not punish staff. His feeling was that although the Council is working together now and people are

allowed to speak, that may not be the case in the future unless an ordinance is enacted.

Mayor Batchelor noted Drew Graska submitted an e-mail and read it into the record. Mr. Draska supported the ordinance, noted closed sessions should be the exception and the majority of discussions should be held in public, including discussions of pay, benefits and disciplinary actions.

Councilmember Bogue felt many laws are made by politicians and lawyers and citizens should have the right to place items on the agenda. He expressed concerns about increased costs related to the ordinance but felt further discussion would enable compromise.

Councilmember Besneatte took offense at people from outside the City saying all politicians are corrupt since he has never been called corrupt and suggested they go home and deal with their own problems rather than coming here and insulting this City. He could not support the ability for anybody to put anything on the agenda because it is contrary to the principles of government, the Council works for everyone not just twenty or thirty people, and noted people should get elected if they want to change things. The Council was elected to make the decisions and do what is in the best interest of the City, he could not think of many more things they could have done over the past year to be more transparent, and this is the most public servant Council around. He thought implementing another layer of government and costs and implementing laws that will generate more attorney fees would be irresponsible.

Councilmember Besneatte took offense that Mr. Scholl continually couches what he says with the threat of a lawsuit or an initiative. He confirmed his intention to keep an open mind and participate in a line-by-line review but hoped derogatory comments will be monitored.

Mayor Batchelor appreciated the discussion of all the important elements, noted that he did have questions and did not agree with all of those elements, but planned to conduct a thorough line-by-line review over several meetings to enable compromise. He took offense at being included with other people who have violated the public trust in other cities, this Council gets input from the community, every member of the Council has a right to put things on the agenda within a reasonable time, items are continually pulled from the Consent Calendar for public comments, and a sunshine ordinance is not required to open up and allow participation. He noted changes in leadership, improved technology, and an expanded website have made all the difference.

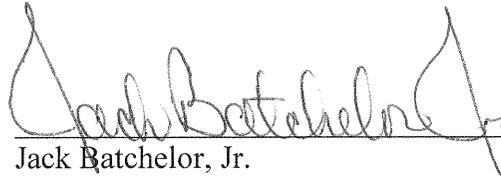
Mayor Batchelor confirmed that he takes discussion of the Sunshine Ordinance very seriously, it will be done in the open at the dais by all five Councilmembers, and although it may take more than one or two meetings, the work will be done and dates for the first meetings will be determined within a day or two.

6. ADJOURNMENT

The Special Meeting of the City Council was adjourned at 9:13 p.m.



Suellen Johnston
Acting Deputy City Clerk



Jack Batchelor, Jr.
Mayor