



City of Westminster

Staff Report

8200 Westminster
Boulevard
Westminster,
California 92683

File #: 24-656, Item #: 5.9

Meeting Date: August 14, 2024

Westminster City Council

SUBJECT

Resolution to Censure Councilwoman Amy Phan West, District 1.

From: Christine Cordon, City Manager
Requested by: City Council
Prepared by: Christine Cordon, City Manager

RECOMMENDED ACTION

Consider a Resolution entitled, "A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER, CALIFORNIA, CENSURING COUNCILWOMAN AMY PHAN WEST (DISTRICT 1) FOR UNACCEPTABLE CONDUCT," and provide direction to adopt resolution.

BACKGROUND

At the June 12, 2024 City Council meeting, Vice Mayor Kimberly Ho (District 3) and Council Member Carlos Manzo (District 2) presented an item to consider censuring Councilwoman Amy Phan West (District 1) for reasons as listed in the proposed resolution (Attachment 1); the motion to move forward with bringing back a resolution of censure carried 3-1-0-1 with Council Member NamQuan Nguyen (District 4) voting no, and Councilwoman Phan West abstaining. A request to revisit the resolution of censure was placed on a special meeting agenda of June 25, 2024; and a motion carried to adjourn the special meeting to the next day (3-0-2-0, with Council Members Nguyen and Phan West absent).

During the June 26, 2024 meeting, the City Council directed staff to prepare a resolution of censure and bring the resolution to the August 14, 2024 meeting for adoption; this motion was made by Mayor Chi Charlie Nguyen and seconded by

Vice Mayor Ho, and carried 3-2 with Council Members Nguyen and Phan West voting no.

The proposed resolution incorporates the reasons presented initially on June 12 via the staff report and late communication and subsequently on June 26.

FISCAL IMPACT

There is no fiscal impact related to adoption of the resolution.

LEGAL REVIEW

The City Attorney's Office has reviewed as to form.

CONCLUSION

By adopting the Resolution, the City Council as a governing body officially censures Councilwoman Amy Phan West (District 1) for the reasons listed within.

ATTACHMENTS

1. Proposed Resolution
2. Staff Report from June 12, 2024 Meeting and Late Communication Memo

REVIEWED BY

Erin Backs, Finance Director
Christian Bettenhausen, City Attorney
Christine Cordon, City Manager

CITY OF WESTMINSTER
RESOLUTION NO. XXXX

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF WESTMINSTER, CALIFORNIA,
CENSURING COUNCILWOMAN AMY PHAN WEST
(DISTRICT 1) FOR UNACCEPTABLE CONDUCT

WHEREAS, the City Council of the City of Westminster has a duty to the residents of Westminster to ensure that state and federal laws, and the rules, regulations and policies of the City of Westminster are followed by all members of the City Council, and that members of the City Council demonstrate the highest level of professionalism and respect while acting in the course and scope of their office; and

WHEREAS, the Ethics Policy adopted by the Westminster City Council on May 22, 2019 (“Ethics Policy”) requires each Councilmember to affirm that they:

“Understand that the citizens of Westminster expect me to serve with dignity and respect, and to be an agent of the democratic process.”

Will “treat other public officials, and members of city staff and the public, with respect, patience, courtesy and civility, even when I disagree with the opinions they have expressed;”

Will “be honest with other public officials, city staff and the public;” and

Will “take responsibility for [their] actions, even when it may be uncomfortable to do so”; and

WHEREAS, complaints were recently made by other members of the City Council, asserting that Councilwoman Phan West had violated the City Council’s Ethics Policy by failing to treat all public officials with respect, patience, courtesy and civility and being honest with other public officials, city staff and the public; and

WHEREAS, at the June 12, 2024 City Council meeting, the City Council agendaized an item to discuss and consider at length the statements alleged to have been made by Councilwoman Phan West, and to decide whether a resolution of censure should be prepared; and

WHEREAS, during the discussion of that item, the City Council duly considered the evidence and comments presented by the other members of the City Council, as well as the comments and responses made by Councilwoman Phan West, and public comments; and

WHEREAS, at the conclusion of the discussion the City Council voted to proceed with the preparation of a resolution of censure; and

WHEREAS, the City Council has determined that Councilwoman Phan West's violation of the City's Ethics policy, as more particularly set forth below, has brought disrepute to the City of Westminster; and

WHEREAS, the City Council does not condone or approve this type of conduct or behavior, and finds it necessary and prudent to declare its strong disapproval of such conduct; and

WHEREAS, the City Council further determines that adoption of this Resolution is necessary to affirm that such conduct will not be tolerated, and to prevent such conduct from being repeated.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WESTMINSTER DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that the Recitals set forth above are true and correct.

SECTION 2. The City Council finds that Councilwoman Phan West engaged in the following conduct in violation of the City of Westminster's Ethics Policy, which requires councilmembers to treat all public officials with respect, patience, courtesy, and civility and be honest with other public officials, city staff and the public:

A. Violation of the Code of Ethics. Sections 2a, 2c, & 2e. Councilwoman Amy Phan West constantly violates Section 2a and disrespects the speakers at council meetings by leaving the dais, texting, arguing, and engaging in verbal altercations with the speakers. [She has] walked out in the middle of a meeting for at least an hour to go to the back, sometimes to eat or talk on the phone, and missed voting on 3-4 agenda items.

B. Disruptive. On at least one occasion when she came back, she wanted to vote on an agenda item the City Council had already voted on.

C. Conduct Guidelines:

1.) Constantly violates subsection (a) Honor the role of the chair in maintaining order. [Councilwoman] Amy [Phan West] ignored and rebelled against the Chair's order when he was trying to run the meeting and call the meeting to order – ignored the rules of order.

2.) Practice Civility. She constantly is not civil and lacks decorum. Recently, she called the Council majority "weak" when they did not vote with her on the Substitute Motion on the resolution to denounce "Jane Fonda Day."

D. She places her self-interest over the needs of the constituents. Examples: Insisted on putting her name on Council resolutions and cover letters numerous times and spending a couple hours at a time fighting for it; constantly grandstanding herself, ignoring the laws.

E. Section 11. Confidential Information. She violated the confidentiality of closed session information to advance her personal interests.

F. Section 14. Advocacy. Constantly making up stories, lying. For example, recently, regarding her hot dog BBQ agenda item, she falsely stated that a City department head told her it was okay to do it.

G. Member's Conduct with City Staff. She does not treat staff as professionals. She acts as if she is above the law.

1. Disrupts City staff from their jobs by staying in their office until late, and by constantly calling them until they answer their phone.

2. Publicly criticizes staff from the dais and lies about what employees said.

H. May 24, 2023. During Council meeting, insinuated staff of hiring someone they knew through the RFP selection process for a billboard sign project.

I. June 7, 2023. Filmed a live social media video insinuating staff of taking a bribe for special treatment from a special event permit applicant for a long-standing annual event.

J. At community events, constantly moves seating arrangements to her liking. This is a violation of basic manners and decency.

K. Berates and uses abusive language towards members of the public. In violation of the Code of Conduct: "Members' Conduct with the public."

L. When specifically addressed during oral communication by members of the public, she does not acknowledge or make eye contact with the speaker. This is a complete violation of the code of conduct: "Practice active listening."

M. Constantly disrupts meetings by passing notes and speaking with City Attorney. A violation of the code of conduct: "Conduct at Public Meetings."

N. On multiple occasions undermined the Mayor's authority by insisting on signing documents in his stead.

O. Constantly leaves during non-agenda Oral Communication portion of the meetings. A violation of the code of conduct: "Practice active listening."

P. February 24, 2024. Huntington West Little League Opening Day. After arriving late, she placed herself in front of the Mayor and all the elected officials who arrived early while we were already in the process of greeting the players coming out. This showed complete disrespect and lack of basic manners.

Q. May 3, 2024. Left the dais to interact with members of the public while the council meeting was still in session.

R. Filed a false police report about a fellow Council Member.

S. May 4, 2024. Recorded a YouTube interview criticizing the City Manager and stated false information. This violated the code of conduct “Never publicly criticize an individual employee.”

T. May 6, 2024. Recorded a YouTube interview spreading lies and propaganda about what happened at the May 3rd special meeting, in complete contrast of the official police investigation’s findings.

U. Trespassing in Construction Zone. Councilwoman Phan West posted on her social media accounts that she was riding a dirt bike at the Springdale Bridge construction site, which is a violation of the trespassing law.

V. Wasting taxpayer’s money for having City staff and the City Attorney’s Office draft letters to State and Federal agencies for items that the City Council does not have jurisdiction over.

W. Ethics. The citizens and business of Westminster are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Use their public office for the public good, not for personal gain

Councilwoman Phan West campaigned from her office by giving an interview with the Mom Army interview in her office while she was a candidate and campaigning for the Central Committee which she then posted on her Instagram account.

X. Act in the Public Interest: Recognizing that stewardship of the public interest must be their primary concern. On May 8, 2024 at 2:26, Councilwoman Phan West left her seat. She missed voting for Item 7.1 to replace two panels on the wall inside the VN war Memorial Kiosk. She missed public comments and did not return to her seat until 30 minutes later at 2:56.

Y. “...and provide for the fair and equal treatment of all persons coming before them”

Councilwoman Phan West disrespected the public when they came up many times to address her; she was still in the building but was not in her seat to listen to them. A few examples on May 8, 2024 at 2:36 regarding the sober living house topic, at 2:39 when a speaker some concerns with Councilwoman Phan West’s behavior and what the speaker would like to see changed but Ms. West was not in her seat at 2:41.

Z. “...putting aside self-interest and consider the needs of all residents.”

June 22, 2024. Councilwoman Phan West placed 3 agenda items with the sole purpose of wanting credit for herself. As a result, the council meeting dragged on until 2 a.m. Result: The public could not wait for Oral Communication and most left before they got to speak.

AA. Conduct of Members: “The professional....should be above reproach and seek to avoid even the appearance of impropriety. Members should refrain from abusive conduct, personal charges or verbal attacks of staff or the public.”

-Unprofessional conduct, verbal attacks: 5/3/24 meeting 1:58:15: West labeled all but 1 of the LA Supervisors as “Socialists.” @ 2:03:54 “Weak” when the majority of the council did not vote with her to label the action of the LA Supervisors as “despicable”- speaking in a demeaning way to the rest of the council .

-How she treated staff by putting words in staff’s mouth: 5/22/24 meeting

AB. Respect for the Process: After being told the process of calling for a special meeting and placing an agenda, she still insisted on putting her name on Vice Mayor Ho’s agenda item for 5/3 special meeting, accusing staff of being in cahoots. See 5/3/24, 5/8/24 meeting and continue to argue over the process on the 5/22/24 meeting.

-To respect the process is to spend the time to learn the process. She does not seem to have a handle on the process.

AC. Conduct at Public Meetings: 5/3/24 meeting at 2:05:49, Councilwoman Phan West left her seat, was disrespectful to the mayor, when asked to come back to her seat, she did not comply and talked back to the person in charge of running the meeting: the Mayor. She talked back to the Mayor: “You guys have the quorum,” and refused to come back.

At 2:06, Councilwoman Phan West was speaking from the theater seats while Council Member Carlos Manzo was making a statement. This is an example of lack of focus on the meeting, unprofessional behavior, lack of decorum.

-Did not listen courteously and attentively to the public who stand before the council...

AD. No member should request or grant a special consideration, treatment or advantage to any person beyond that which is available to every other citizen in similar circumstances or need.

B. CONDUCT GUIDELINES:

1. Members’ Conduct with Each Other:

a) Honor the role of the chair in maintaining order: 5/3/24 @2:05:45 she left her seat, the Mayor asked her to come back, she talked back and did not come back.

b) Practice civility and decorum in discussions and debate: calling the council majority “weak” when we did not vote her way as stated on the previous page.

2. Members’ Conduct with the Public:

Making the public feel welcome is an important part of the democratic process...

On 5/8/24 meeting from 2:26 to 2:56 she left her seats during Open Public Communication for 30 minutes.

c) Practice active listening: We must seek to demonstrate active listening and interest in each speaker’s presentation and to avoid any pessimistic body language: West has a pessimistic body language that signals disinterest, disrespect, a condescending body language can make the public feel terrible like texting and doing something else, like going to the back room while they are trying to address you is outright rude and a violation of “the practice of active listening.”

3. Members’ Conduct with City Staff:

a) Treat all staff as professionals: Clear, honest communication that respects the abilities, experience and dignity of each individual is expected. putting words in their mouth and accusing them of something they didn’t do. See 5/22/24 item 5.5 stating that the Director of Community Services said it was okay to have the BBQ on the proposed date. This is poor behavior toward staff.

-When staff is speaking to explain the process or to reply to your question, give them your undivided attention. See 5/22/24 item 5.4 When the Chief tried to answer Councilwoman Phan West’s questions relating to the Axon agenda, she continuously texted, did not listen, wasting everyone’s time because she had to ask 3 times.

-Blame City Manager for lying on the report. Councilwoman Phan West claimed that the City Manager said her name would be on the report.

AE. Councilwoman Phan West’s PRESS CONFERENCE 6/11/2024 at 14541 Westminster St., Westminster, CA 92683.

22:29 “to address issues stemming from the May 3rd special meeting ... and subsequently, efforts to bully and silence her which involves a police report.

22:45 She was verbally berated by Council Member Carlos Manzo...when I spoke out against April 30th, the Jane Fonda Day....

23:40 When I was leaving the dais, Councilman Manzo was waiting for me... (*not true and an exaggeration of what really happened. He did not block her.*)

26:03 “they tried to accuse me of stealing a \$6 police report”...”as a way to silence and bully me...but when that allegation was proven false they came up with more false allegation...that they are going to attempt to use to censure me tomorrow night.” *THIS IS A LIE.*

27:08 “Tomorrow night’s attempt to censure me is just an underhand tactic to silence me from exposing Councilman Carlos Manzo’s action.

She lies to the public to incite them and to cover up for her actions.

SECTION 3. The City Council finds that the above statements by Councilwoman Phan West were true, and that her conduct in these matters was improper, unprofessional and unacceptable, and constitute a violation of the City’s Ethics Policy. The Council finds that Councilwoman Phan West was acting as an individual when she engaged in this conduct, and was acting without any authorization or ratification by the City Council and contrary to the legitimate interests of the City.

SECTION 4. The City Council hereby censures Councilwoman Phan West for the conduct described herein, and expresses the strongest possible disapproval and disavowal thereof.

SECTION 5. Going forward, the City Council respectfully but earnestly requests and expects Councilwoman Phan West to cease and desist from any further improper and unprofessional conduct toward the other City Councilmembers.

SECTION 6. The Mayor shall sign as to the passage, approval, and adoption of this Resolution.

SECTION 7. The City Clerk shall certify to the passage and adoption of this resolution and shall affix their signature and City Seal and that same shall be entered into the Book of Resolutions.

PASSED, APPROVED, and ADOPTED this 14th day of August 2024.

CHI CHARLIE NGUYEN
MAYOR

ATTEST:

ASHTON R. AROCHO, MMC
CITY CLERK

APPROVED AS TO FORM:

CHRISTIAN BETTENHAUSEN
CITY ATTORNEY

**CITY OF WESTMINSTER
CITY CLERK'S OFFICE**

**CERTIFICATION
OF
RESOLUTION**

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF WESTMINSTER)

I, ASHTON R. AROCHO, MMC, City Clerk of the City of Westminster, do hereby certify that the foregoing Resolution No. XXXX was duly passed and adopted by the City Council of the City of Westminster at a regular meeting held on the 14TH day of August 2024, with the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

Ashton R. Arocho, MMC
City Clerk

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