



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Consider Censure of the Mayor or other appropriate action, as directed by the City Council

MEETING DATE: August 12, 2020

**PREPARED BY
DEPARTMENT HEAD:** Jonathan P. Hobbs, City Attorney

RECOMMENDATION:

Based on prior City Council direction, the City Council proposes to consider the censure of the Mayor or take other appropriate action, all as directed by the City Council.

BACKGROUND:

The City of Elk Grove Code of Ethics was adopted by the City Council on April 27, 2005. (Attachment 1.) At the July 22, 2020 City Council meeting, various public speakers presented oral comments, and the Council received various written comments, from persons alleging that the Mayor had engaged in misconduct in violation of the City's Code of Ethics.

A summary of the alleged misconduct is set forth below. It is important to recognize that this summary is not a list of findings, but rather a summary of the allegations discussed at the prior City Council meeting for the City Council's further consideration.

- Linda Vu alleges that in June of 2020, a man of Hmong descent contacted Ms. Vu about a social media post she made that was critical of Mayor Ly, and that this man, in a threatening manner, requested that Ms. Vu remove the post. The man allegedly indicated that his actions stemmed from Mayor Ly complaining about the post. An op-ed by Ms. Vu detailing her claims was published on-line in the *Elk Grove Tribune* on June 29, 2020.

- On July 14, 2020, Dr. Jacqueline (“Jax”) Cheung posted an on-line story alleging that, following the posting of Ms. Vu’s op-ed in the *Elk Grove Tribune*, which is operated by Dr. Cheung, Dr. Cheung received a threatening call indicating that if she did not remove the on-line stories about Mayor Ly, harm might come to Dr. Cheung and her daughter. Dr. Cheung also alleges that associates of Mayor Ly have been harassing her on-line.
- In July of 2020, Elk Grove Unified School District Board Trustee Bobbie Singh-Allen indicated that she was harassed by Mayor Ly’s associates following her appointment to the School Board in 2012 in an attempt to contest her appointment. At the City Council meeting of July 22, 2020, Ms. Singh-Allen criticized Mayor Ly for his criticisms of Ms. Vu and other speakers.
- In July of 2020, Elk Grove Unified School District Board Trustee Nancy Chaires Espinoza indicated that she had experienced overly-aggressive campaign tactics by Mayor Ly in prior election contests with Mayor Ly, including inaccurate public statements about Ms. Chaires Espinoza.

Mayor Ly denies the allegations of wrongdoing, and denies any improper conduct, which he reiterated at the July 22, 2020 City Council meeting. On June 30, 2020, Mayor Ly posted a response to Ms. Vu’s op-ed, in which Mayor Ly condemned the threatening behavior and denied sending people to threaten anyone. Other speakers spoke in support of Mayor Ly at the July 22, 2020 City Council meeting.

The City’s Police Chief stated at the City Council meeting of July 22, 2020, that, following a review of the Vu and Cheung incidents, the Police Department has been unable to establish that a crime has occurred. The Police Department has closed the matter, pending any additional evidence.

Following public comment on July 22, 2020, other City councilmembers expressed additional concern over Mayor Ly’s conduct, such as unnecessary use of City Council time in using other persons to address issues, the conduct of Mayor Ly’s former assistant, and compliance with court rulings concerning social media.

Mayor Ly expressed concern at the July 22, 2020 meeting as to the propriety of the censure proposal, including concern about whether he was being criticized for running competitive political campaigns. Mayor Ly also

indicated that he felt it important to conduct outreach and educate the voters on matters coming before the City Council, thus explaining the speakers in support of the Mayor's positions at City Council meetings.

In June of 2006, the City Council passed a resolution responding to a Sacramento County Grand Jury report concerning a censure proposal of then-Councilmember Michael Leary. (Attachment 2, 3 [Staff Report and Resolution 2006-216].) The Grand Jury had recommended that Councilmember Leary be censured by the City Council based on a determination by the Grand Jury that Councilmember Leary was limiting political dissent at a Council meeting. By the resolution responding to the Grand Jury report, the City Council declined to censure Councilmember Leary. The relation of that resolution to the current censure proposal is further discussed below.

DISCUSSION/ANALYSIS:

The ability to censure a co-member of a legislative body is an inherent power of a legislative body. (*Whitener v. McWatters* (4th Cir. 1997) 112 F.3d 740.) A censure is an expression of disapproval by a majority of the legislative body of conduct of one of its members. (*Phelan v. Laramie County Community College Bd. of Trustees* (10th Cir. 2000) 235 F.3d 1243; *Braun v. City of Taft* (1984) 154 Cal.App.3d 332.) Aside from an expression of disapproval, a censure alone carries no legal effect or penalty. (*Phelan*.)

A censure proposal should be focused on councilmember conduct, so as not to infringe on a councilmember's protected free speech rights. (*Richard v. City of Pasadena* (C.D. Cal. 1995) 889 F.Supp. 384; *Phelan* [censure did not violate free speech rights of censured board member; censure was an expression of opinion by a majority of the board that did not punish a board member for exercising free speech rights or deter future speech].)

The 2006 resolution concerning former Councilmember Leary's conduct stated that if "the City adopts a policy which permits censure of City Council members, the City must clearly state in advance what conduct will constitute grounds for censure." (Attachment 3.) In 2011, a federal court in California found that cities are not required to adopt a censure policy before censuring a councilmember, so long as the censured councilmember receives notice that the proposed censure vote will be considered at an upcoming public meeting. (*Westfall v. City of Crescent City* (N.D. Cal. 2011) 2011 WL 4024663.)

The 2006 staff report concerning former Councilmember Leary's conduct also indicates that the conduct for which censure was contemplated predated the City's Code of Ethics. The City has since adopted a Code of Ethics, which was adopted on April 27, 2005. (Attachment 1.)

Thus, while under existing law a formal censure process is not required, a councilmember subject to censure is entitled to due process – notice and an opportunity to be heard – prior to the imposition of a censure. The City Council should also focus on conduct of the subject councilmember during the time the councilmember was on the City Council.

Factual allegations of misconduct have been alleged by Ms. Vu and Dr. Cheung during Mayor Ly's time on the City Council. In short, Ms. Vu and Dr. Cheung allege that persons contacted and threatened them at the request or acquiescence of Mayor Ly. No findings have been made as to these allegations, and the Mayor denies these allegations. Staff recommends that the City Council focus its censure decision on the alleged misconduct presented, ensuring that the Mayor has an opportunity to further respond to the allegations, prior to taking any action on a censure motion. If additional factual allegations of misconduct are presented at the City Council meeting, the City Council should ensure that the Mayor be given an adequate opportunity to respond, either at this meeting or at a future meeting, depending on the scope and nature of any additional allegations.

Following consideration of all of the information presented on this matter, including any response from Mayor Ly, the City Council may issue a censure of Mayor Ly if a majority of the City Council is of the opinion that Mayor Ly has violated a provision of the City's Code of Ethics. Again, it is important to understand that a censure is an expression by the City Council of their opinion of inappropriate conduct, but it is not a formal legal finding of wrongdoing. (*Little v. City of North Miami* (11th Cir. 1986) 805 F.2d 962 [censure is City Council's opinion regarding the propriety of a person's activity and does not have force of law].)

ALTERNATIVES:

In discussing the censure proposal at the July 22, 2020 meeting, the City Council suggested the following alternatives:

- Soliciting a letter of apology from Mayor Ly.
- Encouraging Mayor Ly to attend anti-harassment or anti-bullying training.

- Encouraging Mayor Ly to further educate the community about the Hmong clan structure, through public workshops or other mechanisms.
- Refer this matter to the Sacramento County Grand Jury for further investigation, which would require a majority vote of the City Council.

All but the last item (Grand Jury referral) would require the consent of Mayor Ly.

As another alternative, the City Council could direct staff, by majority vote, to retain an independent investigator to investigate the matter further and make findings as to whether there has been a violation of the City's Code of Ethics by Mayor Ly. The estimated cost of such an investigation would be approximately \$15,000 to \$30,000, and it would likely take two to four months, depending on the schedules and workload of the retained investigator, and the scope of the investigation.

The City Council could also choose to take no further action on the censure proposal or any other proposal. The City Council could also provide further direction as it deems appropriate.

FISCAL IMPACT:

There would not be a significant financial impact on the City for a censure vote or a referral of this matter to the Sacramento County Grand Jury. If the City Council were to direct the retention of an independent investigator, the cost of the investigation is estimated at \$15,000 to \$30,000 and would be drawn from the General Fund.

ATTACHMENTS:

1. City of Elk Grove Code of Ethics (adopted April 27, 2005)
2. City of Elk Grove Staff Report, August 9, 2006 (Item 7.4)
3. City of Elk Grove Resolution 2006-216

**City of Elk Grove California
City Code of Ethics**

Prepared by Citizens of Elk Grove

Preamble

The citizens of the City of Elk Grove are entitled to responsible, fair and honest city government that operates in an atmosphere of respect and civility. Accordingly, the Elk Grove City Council, with citizen input, has adopted this code to:

1. Describe the standards of behavior to which its leaders and staff aspire.
2. Provide an ongoing source of guidance to elected leaders, city officials and staff in their day-to-day service to the city.
3. Promote and maintain a culture of ethics.

Pledge

On April 27, 2005, the City Council of the City of Elk Grove adopted this City Code of Ethics, which applies to all City employees, officers, commissions, and elected or appointed officials and requires the following pledge:

City Code of Ethics

Responsibility

- I understand that the community expects me to serve with dignity and respect, as well as be an agent of the democratic process.
- I avoid actions that might cause the public to question my independent judgment.
- I do not use my office or the resources of the city for personal or political gain.
- I am a prudent steward of public resources and actively consider the impact of my decisions on the financial and social stability of the city and its citizens.

Fairness

- I promote consistency, equity and non-discrimination in public agency decision-making.
- I make decisions based on the merits of an issue, including research and facts.
- I encourage diverse public engagement in our decision-making processes and support the public's right to have access to public information concerning the conduct of the City's business.

Respect

- I treat my fellow city officials, staff, commission members and the public with patience, courtesy, civility, and respect, even when we disagree on what is best for the community and its citizens.

Honesty

- I am honest with all elected officials, staff, commission members, boards, the public and others.
- I am prepared to make decisions when necessary for the public's best interest, whether those decisions are popular or not.
- I take responsibility for my actions, even when it is uncomfortable to do so.

- Consent
- Public Hearing
- Regular Action

CITY OF ELK GROVE

ELK GROVE CITY COUNCIL AGENDA ITEM Meeting Date August 9, 2006

TO: ELK GROVE CITY COUNCIL

FROM: Tony Manzanetti – City Attorney

SUBJECT: Mayor’s Response to the Findings and Recommendations of the Grand Jury, City Council’s Response and Other Action Deemed Appropriate by the City Council Regarding Matters Discussed by the Grand Jury

RECOMMENDATION:

Receive the “Mayor’s Response to the Grand Jury Report,” Provide Direction Regarding the City Council’s Response to the Grand Jury Report and Other Action Deemed Appropriate by the City Council Regarding matters Discussed by the Grand Jury.

BACKGROUND AND CITY ATTORNEY’S ANALYSIS:

The Sacramento County Grand Jury on June 30, 2006 issued its 2005-2006 Final Report. That Final Report contained report on nine topics, on of which was “Elk Grove City Council: The Handling of Political Dissent.” In that report the Grand Jury made certain findings and recommendations concerning a specific City Council member and the City Council generally. The Grand Jury directed that the Elk Grove City Council provide specific responses pursuant to Penal Code sections 933 and 933.05, to both the findings and recommendations.

The Code requires, for each finding, that the responding person or entity agree with the finding or disagree wholly or partially with the finding specifying the part that is disputed along with an explanation of the reasons. (Section 933.05(a).) Additionally, the code requires that for each recommendation, the responding person or entity, report that the recommendation has been implemented, has not yet been

implemented, requires further analysis, or will not be implemented. (Section 933.05 (b).)

The code requires that comments be provided to the Judge of the Superior Court no less than 90 days after the Grand Jury report. (Section 933(c).) The code also requires that, in the case of a city, “the Mayor shall also comment on the findings and recommendations.” (Section 933(c).)

The “Mayor’s Response to the Grand Jury Report,” as required by the code, will be available prior to the Council meeting. The response is being prepared by the Mayor, in consultation with the City Attorney, who in turn has been in consultation with outside counsel with expertise in conflict of interest matters. In it, the Mayor will provide his own responses to the various findings by the Grand Jury. Because the Mayor alone cannot adopt the City Council’s response to the Grand Jury’s recommendations, the Mayor, in his response, provides to the Grand Jury comments that are responsive to the Grand Jury’s recommendations.

The City Council may adopt in whole or in part the “Mayor’s Response to the Grand Jury’s Report,” or the City Council may provide a completely different response. Staff needs direction from the City Council to provide the Presiding Judge with the City Council’s response.

Additionally, the City Council may take other action, as it deems appropriate, in response to the matters discussed by the Grand Jury. What follows is a summary of information received from outside counsel regarding expression “dissatisfaction” with a fellow council member.

LEGAL ANALYSIS:

Suspension or Removal:

The City Council is the duly elected legislative body of the City. Council Members are each coequals on the City Council. As such, in general a law city, the City Council does not have general authority to suspend or remove any of its members.

The only method to suspend or remove a Council Member of a general law city is through the recall procedures set out in Elections Code section 11200 *et. seq.*

Censure:

City Councils may attempt to “censure” individual Council Members for violation of various city policies. Censure is usually accomplished through a resolution of a legislative body “reprimanding” a person, usually one of its own members, for specified conduct. (See Black’s Law Dictionary (1997) 7th Edition.)

The only appellate level California case which deals with the authority of a City to censure a fellow Council Member is *Braun v. City of Taft* (1984) 154 Cal.App.3d 332. In *Braun*, the City Council censured a fellow Council Member for releasing to the public allegedly confidential city documents. The Court set aside the Council’s censure on the grounds that the records released were not confidential and should have been released pursuant to the California Public Records Act. Except for noting that under the circumstances the censure should be set aside, the *Braun* opinion does not provide much guidance on the authority of a City Council to censure City Council Members.

There are also several trial court and federal court cases dealing with censure. These cases generally arise when the public official censured sues the city to overturn the censure or to bring damages claims against the city under U.S.C.S. §1983

Government Code section 36813 provides that the City Council may “establish rules for the conduct of its proceedings” and “may punish a member or other person for disorderly behavior at a meeting.” However, under the U.S. Constitution the City cannot censure a public official unless the City has an existing policy permitting censure in place. The City must define in advance what conduct will subject an official to censure. Enforcement of a policy that fails to properly define censurable conduct can lead to constitutional due process violations.

There are several constitutional limits on the City Council's authority to censure members of the City Council that are not accounted for in the recommendations in the Grand Jury's Report.

Limits Under the U.S. Constitution:

The United States Constitution provides three broad limitations on a City Council's ability to discipline a fellow council member. First, censure is not an appropriate remedy where doing so would impinge on the First Amendment rights of a Council Member. (*Richard v. City of Pasadena* (1995) U.S. Dist. Ct. C.D. Cal—Case CV 94-3418 RAP (“*Richard*”).) Second, this policy cannot violate the doctrine of “legislative immunity”. (*Bogan v. Scott-Harris* (1997) 523 U.S. 44 (“*Bogan*”).) Third, the City must afford the person being censored the due process rights of notice and an opportunity to be heard. (*Little v. City of North Miami* (11th Cir. 1986) 805 F.2d 962, 969 (“*Little*”).) Each of these is discussed below.

1. First Amendment Free Speech Rights.

The City Council cannot legally censure members of the City Council for speech that is protected by the First Amendment. (*Kucinich v. Forbes* (N.D. Ohio 1977) 432 F. Supp. 1101, concluding that a City Council could not suspend a council member for making allegedly defamatory remarks about the council president.) Generally, the City may censure for conduct but not speech. Compare, *White v. City of Norwalk* (1990) 900 F.2d 1421 and *Richard, supra*.

The only appellate level California case which deals with the authority of a City to censure a fellow Council Member is *Braun v. City of Taft* (1984) 154 Cal.App.3d 332. In that case the Court set aside the Council's censure.

If the City adopts a policy which permits censure of City Council members, the City must clearly state in advance what conduct will constitute grounds for a censure. Additionally, if the City decides to censure any Council Member, the City should state that it is basing its censure upon inappropriate conduct, rather than speech, to ensure it does not trigger legal challenges on First Amendment grounds.

2. Legislative Immunity.

Secondly, the City cannot legally censure members of the City Council for purely legislative actions. The United States Supreme Court has recognized absolute immunity for local legislative bodies for legislative actions. (*Bogan, supra*, at 54.) “Whether an act is legislative turns on the nature of the act, rather than on the motive or intent of the official performing it.” The court will simply look at whether the official was acting in a legislative capacity and if the official was acting in a legislative capacity, then the Council Member is entitled to absolute immunity for this conduct. This immunity only covers the decision itself, the content of the decision, any steps the Council Member took to render that decision and any statements made during a public meeting in which the official made the determination.

3. Fourteenth Amendment Due Process Rights.

Third, the City must provide the accused council member with notice and an opportunity to understand and respond to the criticisms against him or her before imposing discipline. As the court references above note, an important part of proving notice, is having, in place, a policy that clarifies what conduct could lead to censure. The court in *Little, supra*, at 964, concluded that a censure may be considered the deprivation of a property interest and a liberty interest because it involves potential damage to reputation and business interest. As such, if the City deprives a Council Member of this interest without due process this may give rise to a claim for violation of the 14th Amendment to the United States Constitution, and a violation of civil rights under U.S.C.S. §1983. If a Council intends to censure any public official, including a fellow Council Member, it must provide notice and an opportunity to be heard.

Non-Disciplinary Criticism:

The Council may use “non-disciplinary” means to “enforce” its policies. However, as noted above, like anyone else, Council Members have free-speech rights to “criticize”, “disapprove”, “reprove” or even “condemn” the actions members of the public, other organizations, or even of other Council Members. The Council

has discretion to choose who of its number shall represent it on various “2x2’s” or task forces, sub-committees and sister agencies and boards.

If a Council wishes to make a non-disciplinary statement of disapproval against a fellow council member — such as the options above — the City should nonetheless give the Council Member who is the subject of such disapproval prior notice and an opportunity to be heard.

Individual Council members, and the Council may also take actions that are designed to express dissatisfaction with one of its members, but do not seek to “enforce” a council policy.

1. Council Members’ Individual Expressions of Dissatisfaction.

Council members’ individual expressions of dissatisfaction are protected by the constitutional considerations referred to above. Council members are not asked to leave their First Amendment rights at the door when they step onto the dais. The Constitutional protections – First Amendment and Legislative Immunity – that protect political dissent also protect council members while on the dais.

2. Council Action Expressing Dissatisfaction.

However, should the Council as a body take action, such as to remove from a committee or not appoint one of its number to a committee as a form of expression of its dissatisfaction, then notice and an opportunity to be heard are appropriate. (See *Little v. City of North Miami, supra*, suggesting that even council action expressing disapproval may trigger due process rights.)

Timeliness:

The Grand Jury findings and recommendations concern matters dating to April of 2005, some fourteen months earlier. Additionally, the City Code of Ethics was subsequently adopted, and has assisted in framing subsequent debates.

FINANCIAL IMPLICATIONS TO CITY:

No impact to the General Fund, unless legal action ensues and defense of Council action is required.

ATTACHMENT:

None.

RESOLUTION NO. 2006-216

**A RESOLUTION OF THE CITY OF ELK GROVE
 APPROVING THE MAYOR'S COMMENT
 AND SUBMITTING THE COMMENT OF THE CITY COUNCIL
 TO THE REPORT OF THE SACRAMENTO GRAND JURY**

<p>To the Hon. Roland L. Candee Presiding Judge Superior Court of California County of Sacramento:</p>	<p>In re: Elk Grove City Council – The Handling of Political Dissent Sacramento Grand Jury Report June 30, 2006</p>
---	--

Whereas, the Sacramento County Grand Jury has directed the City of Elk Grove to provide comment to both the findings and recommendations to the Presiding Judge of the Sacramento Superior Court as required by Penal Code Sections 933 and 933.05; and

Whereas, Penal Code Sections 933 and 933.05 require, in the case of a city, that the Mayor shall also comment on the findings and recommendations: and

Whereas, the Mayor and City Council of the City of Elk Grove has reviewed the report by the Grand Jury;

Now, Therefore, the Mayor and City Council of the City of Elk Grove do hereby resolve and comment as follows:

Finding 1 and Recommendation 1. Comment: The City Council disagrees. No one was prohibited at that subject meeting or at any other time from levying public criticism of the City or the City Council. If anything, the Council's meetings have been extremely open to comment and free debate. An expression of disagreement about process is a part of healthy democratic debate. At the time the remarks were made, no member of the public was before the Council and no individual nor entity's name was used though the context of the discussion was about community grants to the Historical Society among others.

The Grand Jury findings and recommendations concern matters dating to April of 2005, some fourteen months earlier. The matter is stale at best merely assuming anything should or could be done by the Council at this point in time. The City Code of Ethics recommended by Citizens of Elk Grove was subsequently adopted and has assisted in framing subsequent debates.

There are several constitutional limits on the City Council's authority to censure members of the City Council that are not reflected in the Grand Jury's

recommendation. First, censure is not an appropriate remedy where doing so would impinge on the First Amendment rights of a Council Member. (*Richard v. City of Pasadena* (1995) U.S. Dist. Ct. C.D. Cal—Case CV 94-3418 RAP (“*Richard*”).) Second, this policy cannot violate the doctrine of “legislative immunity”. (*Bogan v. Scott-Harris* (1997) 523 U.S. 44 (“*Bogan*”).) Third, the City must afford the person being censored the due process rights of notice and an opportunity to be heard. (*Little v. City of North Miami* (11th Cir. 1986) 805 F.2d 962, 969 (“*Little*”).)

The City Council cannot censure members of the City Council for speech that is protected by the First Amendment. (*Kucinich v. Forbes* (N.D. Ohio 1977) 432 F. Supp. 1101, concluding that a City Council could not suspend a council member for making allegedly defamatory remarks about the council president.) Generally, the City may censure for conduct but not speech. (Compare, *White v. City of Norwalk* (1990) 900 F.2d 1421 and *Richard, supra*. The only appellate level California case which deals with the authority of a City to censure a fellow Council Member is *Braun v. City of Taft* (1984) 154 Cal.App.3d 332, in which case the Court set aside the Council’s censure.) If the City adopts a policy which permits censure of City Council members, the City must clearly state in advance what conduct will constitute grounds for a censure. Additionally, if the City decides to censure any Council Member, the City should state that it is basing its censure upon inappropriate conduct rather than speech, to ensure it does not trigger legal challenges on First Amendment grounds.

Additionally the City cannot censure members of the City Council for purely legislative actions. The United States Supreme Court has recognized absolute immunity for local legislative bodies for legislative actions. (*Bogan, supra*, at 54.) “Whether an act is legislative turns on the nature of the act, rather than on the motive or intent of the official performing it.” The court will simply look at whether the official was acting in a legislative capacity and if the official was acting in a legislative capacity, then the Council Member is entitled to absolute immunity for this conduct. This immunity only covers the decision itself, the content of the decision, any steps the Council Member took to render that decision and any statements made during a public meeting in which the official made the determination.

The recommendation will not be implemented because it violates the First Amendment and the Doctrine of Legislative Immunity.

Finding 2 and Recommendation 2. Comment: The City Council disagrees.. See Comment to Recommendation 1. In addition, the Mayor and at least one other council member clearly distinguished the rights, obligations, positions and statements of individuals from that of various organizations with which they might be associated. That admonition was acknowledged when all the grants were adopted save one which was deferred to a later meeting for other reasons.

The recommendation will be not be implemented because it is not warranted and because it violates the First Amendment and the Doctrine of Legislative Immunity.

Finding 3 and Recommendation 3. Comment: The City Council disagrees. See Comment to Recommendation 1. Additionally, The Code of Ethics was carefully considered and recommended by the citizens of Elk Grove and adopted subsequent to the events discussed. The Code is working. Further, the recommendation does not recognize the strict limits on the inherent authority of the City Council over the performance in office of any individual elected member of the Council.

The recommendation will not be implemented because it is not warranted and because it violates the First Amendment and the Doctrine of Legislative Immunity.

-o0o-

By action of the City Council of the City of Elk Grove at its regularly scheduled meeting on August 9, 2006, this is the comment of the City of Elk Grove and the comment of the City Council of the City of Elk Grove and is submitted pursuant to the Laws of the State of California.

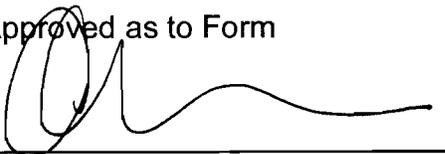
APPROVED AND ADOPTED this 9th day of August, 2006.


Elk Grove City Council
by Richard Soares, Mayor

Attest:

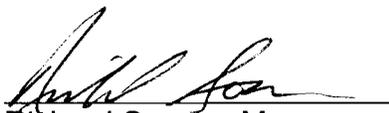

Peggy Jackson
Elk Grove City Clerk

Approved as to Form


Anthony B. Manzanetti

By my signature below, I adopt this as the comment of the Mayor of the City of Elk Grove and it is hereby submitted pursuant to the Laws of the State of California.

August 10, 2006
CITY OF ELK GROVE


Richard Soares, Mayor

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2006-216

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

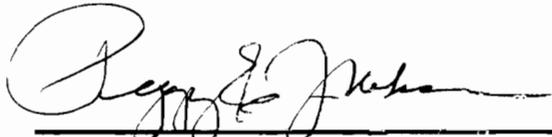
I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 9, 2006 by the following vote:

AYES : **COUNCILMEMBERS:** **Soares, Scherman, Briggs, Leary**

NOES : **COUNCILMEMBERS:** **None**

ABSTAIN : **COUNCILMEMBERS:** **None**

ABSENT: **COUNCILMEMBERS:** **Cooper**



Peggy E. Jackson, City Clerk
City of Elk Grove, California