

CITY OF ELK GROVE

Incorporated July 1, 2000

MINUTES OF THE CITY COUNCIL
Wednesday, March 14, 2001
Community Services District
Board Room
8820 Elk Grove Boulevard
Elk Grove, CA 95624

CALL TO ORDER/ROLL CALL

Mayor James Cooper called the March 14, 2001 regular City Council meeting to order at 6:47 p.m.

Present: Council Members Briggs, Leary, Scherman,
Mayor Pro Tempore Soares, Mayor Cooper

Absent: None

Mayor Cooper led the Pledge of Allegiance.

PUBLIC COMMENT

Sarah Johnson expressed concern that the City of Elk Grove may not apply for PUC 130 funding due to comments made by Union Pacific Railroad representative Jim Smith regarding the installation of quad arm guards at the Elk Grove Boulevard/UPRR crossing. She expressed support for quad-arm installation and stated she would like for the application for PUC-130 for emergency funding to go forward. She spoke in opposition for installation of the temporary delineators.

Mr. Castleberry displayed the delineator type that is being considered for installation. The delineators are temporary and do bend if hit. He noted that the delineators would be installed in such a manner as to provide driveway access. He stated that he had written notice from the Public Utilities Commission that either the Railroad or the City can initiate the application for emergency funds.

City Manager David Jinkens confirmed that the City intends to go forward with the PUC 130 application. He also stated that installation of the delineators would be a temporary solution to discourage vehicular traffic from illegal crossings and to enhance public safety.

Council Member Leary questioned whether the funding is limited to installation of the quad gates (arms) or can the funds be applied toward a mitigation chosen by the City.

Mr. Jinkens noted that if it were the intent of the Council to use the funds for safety mechanisms other than quad gates, staff would take this into consideration in the application process.

Merwin Rose, read from the Government Code relative to public comment on Closed Session items. He expressed concern that the public did not have an opportunity to address the purchase of City Hall.

City Attorney Manzanetti responded that negotiations for the real property purchase of City Hall were properly represented. He recalled that when the negotiations were concluded, Mayor Cooper announced the decision in open session and indicated that the contract was available for review by the public. He also stated that the announcement was made at the end of a Council meeting and that few were in attendance.

Mr. Jinkens recalled that there were a number of meetings wherein the real property acquisition issue was identified, as was the address of the property and negotiators. He offered the information to Mr. Rose, as it is available on past agendas, minutes and the contract.

John Stoppleman, President of the Elk Grove Chamber of Commerce, gave an update on Chamber activities. He reported that the Business Expo scheduled for Fall 2001 is a street-faire type forum allowing local businesses to display their services and products in a public venue. Another event, scheduled for Spring 2002, "Experience Elk Grove", is a one-day forum designed to showcase local businesses and services.

Danetta Garcia requested a copy of the documents relative to the city real property acquisition.

Ms. Garcia, made reference to the March 7 City Council meeting and read from the Government Code relative to prohibition of public criticism by the Legislative Body. Ms. Garcia stated that there has been heated discussion relative to railroad issues. She stated that the public comes to express its views to the City Council, which should be respected by the Council. She requested the Council take care to listen to statements made by the public.

Mayor Cooper remarked that at a Closed Session held earlier on this date, the Council appointed David Jinkens as the permanent City Manager. Mayor Cooper noted that this action was passed by a 5-0 vote by the City Council.

Bob Whitelock, requested the Council's support to influence the Post Office's decision to cancel plans for opening an additional Post Office branch in Elk Grove. He recalled that through the efforts of a community committee, the Post Office found justification for adding an additional full service branch to Elk Grove. He noted that the Post Office has recently announced that the decision to install the branch has been reversed due to

budget constraints. He requested that the City Council direct Mr. Jinkens to contact the Post Office to request their reconsideration.

Council Member Scherman asked Mr. Whitelock if he would be interested in resurrecting the committee to collaborate with the City Manager to request the Post Office to reconsider. Mr. Whitelock agreed to her request.

The Mayor voiced his concurrence to Council Member Scherman's request to sit on the community committee.

APPROVAL OF AGENDA

City Attorney Tony Manzanetti requested that Agenda Item No. 4.3 be pulled from the consent calendar and considered as a regular item; and that Agenda Item No. 6.5 be pulled from the agenda.

Motion: *It was moved by Council Member Leary and seconded by Council Member Scherman to approve the March 14, 2001 agenda with the noted exceptions requested by City Attorney Manzanetti. The motion passed by a vote of 5-0.*

PRESENTATIONS/ANNOUNCEMENTS

There were no proclamations presented.

CONSENT CALENDAR ITEMS

Motion: *It was moved by Council Member Leary and seconded by Council Member Scherman to approve the consent calendar, considering Agenda Item No. 4.3 as a regular action item as requested by City Attorney Manzanetti. The motion passed by a vote of 5-0.*

Agenda Item No. 4.1 – Approval of Minutes of January 24, 2001 Regular City Council Meeting

Agenda Item No. 4.2 – Approval of Monthly Treasurer's Report of January 31, 2001 and February 28, 2001

PUBLIC HEARINGS

Agenda Item No. 5.1 -- *Silver Creek Appeal Hearing Pursuant to Court Order and Agreement with Appellant*

John Fletcher, the appellant and legal counsel for Suburban Propane, stated that his client regards the issue of development around their facility seriously. He stated that his primary focus was the Quest Report, which indicates that it is safe to build almost any type of structure within 600 feet of Suburban Propane's fence line.

Mr. Fletcher stated that the Quest Report underestimates the potential of risk should a catastrophe occur at Suburban Propane. He requested that the record reflect strong opposition to the Quest report findings.

Mr. Fletcher noted that when the Suburban Propane plant was constructed, the nearest structure was the Elk Grove High School, with the exception of some minor buildings.

Mr. Fletcher noted that Quest was initially contracted with by the developer of Lent Ranch, which gives the appearance of taint. He proposed that a group, comprised of the Jan Dunbar and Wally Jukes, Fire Chief Meaker, and Dr. Jacobus compile a list of experts to independently evaluate whether it is prudent and proper land use management to build in close proximity to Suburban Propane. Mr. Fletcher introduced Dr. John Jacobus, a highly credentialed chemist who works for EFI, Engineering and Fire Investigations.

Mr. Jacobus reported that in 1999, Lawrence Livermore Laboratories issued a report, at the request of the Federal Bureau of Investigations, relative to "*The Worst Case Scenario Accident That Could Occur at the Suburban Site*". Mr. Jacobus stated that Lawrence Livermore Laboratories requested that he undertake an independent study to evaluate the Livermore Laboratories report. He stated that he issued a report, which debunked the report.

Dr. Jacobus stated that the report by Lawrence Livermore Laboratories concluded that under the "worst case scenario" there would be a 12-mile radius of destruction. Mr. Jacobus stated that he was principally interested in the types of damages that would result from various scenarios, which could potentially occur at Suburban Propane. He acknowledged that his report was abbreviated, and given the time constraint, could not be all-inclusive. He stated that there could be overpressures—damaging pressure waves, which could occur, out one mile from the plant.

Dr. Jacobus stated that in May 2000, a task force, formed by the City of Elk Grove, produced a report, which, in essence, agreed with the calculations that he had performed. He questioned the Quest report conclusion that there could be no overpressures beyond 600 feet. Dr. Jacobus referred to a National Transportation

Safety Board reports on an explosion, which occurred in 1992 in Brenham, Texas, which resulted in overpressures beyond a one-mile radius.

He critiqued a second Quest report produced in December 2000 and stated that the explanations posed in both of the Quest reports are scientifically invalid. He expressed reservations that any high-density entity should be built within a half-mile of Suburban

Propane. In the worst-case scenario, he expressed concern that there would be serious overpressure impacts within a mile of the facility. He urged the Council to hire a neutral party to do an independent study to draw conclusions from the reports that have addressed the issue.

Mayor Cooper opened the discussion to public comment.

Lisa Dixon, Sarah Johnson and Sharon Lynes spoke in opposition to additional housing development in the vicinity of Suburban Propane. The Council was urged to rezone the property to light industrial or agricultural and to disallow residential development.

Jim Rey, representing the original applicant of the subdivision development, Tim Lewis Construction, stated that all of the information heard at this hearing has been available and presented at other Planning Commission and City Council meetings. He expressed the position that the risk posed by this development is not unlike exposure to any other risks. He emphasized that the project under consideration is more than .75 miles away from the Suburban Propane property. He requested the Council affirm the approval of the project.

The Mayor closed the public comment opportunity.

Phil Carter, Planning Director, confirmed that the Lent Ranch Mall applicant originally contacted Quest Consultants. Initial planning for the environmental impact report concluded in a review of all written material transferred between Mr. Cornwell and the developer prior to the City's involvement. As a result of the meeting and review, staff concluded that Quest Consultants would provide the independent review necessary, under contract with the City of Elk Grove. The relationship between John Cornwell and the developer and applicant, and Quest Consultants were brought under contract with the City.

Mr. Carter noted that contracts for consultants contain a number of provisions, including independence and confidentiality. These provisions gave the City management control of the process to assure an independent analysis was achieved.

Mr. Carter also stated that there were meetings with CSD Fire Department and providers of other technical reports applicable to Suburban Propane in an attempt to affirm the conclusions of the Quest report. He stated that it was the intent of the City to

provide an opportunity, technician to technician, to discuss the report. During that meeting, there were no technical issues raised in terms of flaws or failures of the Quest study.

Mr. Carter reported that during the draft environmental review process for the Lent Ranch Marketplace project, no letters were received on Suburban Propane's behalf questioning the technical validity of the report. He noted that the proper forum to address technical analyses arguments should be during the environmental review process.

John Cornwell of Quest Consultants addressed the issues raised by Mr. Fletcher and Dr. Jacobus. He felt that it is important for Suburban Propane to define "a safe distance". He stated that the report prepared by his firm addressed the issue of identifying the risk posed by Suburban Propane as one moves away from the facility. In addressing the differing conclusions of the reports, Mr. Cornwell stated that one important factor is understanding the limitations of the model and matching them to the test data.

Mr. Cornwell stated that the supplemental report addressed: 1) could a release of that magnitude or type occur at Suburban Propane. He answered that this was possible but that the source would not be from the refrigerated storage tanks; and, 2) would there be the same overpressure effects. He answered that the answer as "no". He stated that there are only certain areas in the Suburban Propane and in the Georgia Pacific facilities that have sufficient obstacle density, closely packed arrays of obstacle, to allow for flame acceleration. He stated that the key finding is that only the part of the cloud that is confined in the obstacle array contributes to the high overpressure. Locally, within Suburban Propane and Georgia Pacific, overpressures may be achieved to inflict significant damage, but that the overpressure decays rapidly as one moves away from the facility.

Mr. Cornwell also stated that the report does not say that there is no chance of damage or fatalities outside the range of 600 feet. He clarified that the report states that the risk declines as one progresses farther away from the fence line.

City Attorney Manzanetti asked that the record reflect that the photograph referred to by Dr. Jacobus was not unrolled, nor shown to the Council, and is not a record of the proceedings. He stated that there had been some innuendoes made relative to the credibility of the experts, and he questioned whether Dr. Jacobus would have been present if he had agreed with the risk assessments presented by the Quest report. Mr. Manzanetti assured the Council that if Mr. Cornwell had agreed with Dr. Jacobus' conclusions, he would be present.

He noted that the contract with Mr. Cornwell is a specialized contract. It contains the indemnification and confidentiality and duty to the City provisions. It also contains a unique provision that Mr. Cornwell has expressly agreed that he will not consult or share

the information with the Lent Ranch Marketplace proponents. Mr. Manzanetti stated that it was vitally important that Mr. Cornwell's independence was secured to achieve an unbiased report for Council's consideration.

Addressing the public comment relative to the Council bearing the consequences if they approve the project, Mr. Manzanetti clarified the authority of the Council. He stated that the City Council is making a decision only as to how the property may be developed.

The City is not requiring or encouraging development or purchase of the residential property in question.

In reviewing the testimony given by staff, the project applicant, the appellant and the public, Council Members separately and unanimously expressed that no new information had been brought forward to show why the tentative map should be denied.

Motion: Council Member Leary moved and Council Member Scherman seconded a motion to deny the appeal of Suburban Propane and approve the request of the appellant. The motion passed by a 5-0 vote.

REGULAR AGENDA ACTION ITEMS/RECOMMENDATIONS

Agenda Item No. 4.3 -- Approval of Employment Agreement for City Manager

Mr. Manzanetti stated that provisions addressing deferred compensation and PERS payments should be clarified. He noted that the provision regarding deferred compensation should be deleted from the contract. He also recommended that a provision for PERS retroactivity be included.

Council Member Scherman requested that the City Manager and City Clerk be given their oaths at the next City Council meeting.

Motion: Council Member Leary moved and Council Member Scherman seconded a motion to approve the employment agreement for City Manager David Jinkens, and that the provision of deferred compensation are removed from the contract and that the provision for retroactive PERS participation be included. The motion passed by a 5-0 vote.

Mr. Jinkens thanked the Council and stated that he is honored by the appointment.

Agenda Item No. 6.1 -- Law Enforcement Services Agreement Between the City of Elk Grove and Sacramento County

City Manager David Jinkens reported that the County Executive Officer, Terry Schutten, has responded, as has the Sheriff's Office, relative to the contract. He stated that they have requested additional time to review the contract provisions.

Mr. Jinkens stated that there was concern regarding the 2000-01 budget figures and Council had requested the budget be reviewed along with the services provided before and after incorporation. He noted that the County Executive's willingness to confer with the City on the revenue sharing agreement.

Public meetings of the Law Enforcement Technical Advisory Committee (LETAC), created to advise the Council on the provision of law enforcement services, have been held. He noted that the Law Enforcement Transition Team consists of Chief of Police Ed Flint, Deputy Chief Ed Kelly, the Operations Lieutenant and a budget coordinator. Costs for these services were allocated in the current fiscal year budget.

Mr. Jinkens explained that the law enforcement agreement would designate and assign responsibilities. The agreement also provides for the development of a police services plan for ensuing years.

Mr. Jinkens stated that information developed by City Attorney Manzanetti relative to the law enforcement contract would be shared with the County Executive.

Mr. Jinkens noted that the contract would be brought back to the Council in the near future for consideration.

City Attorney Manzanetti noted that every provision has been scrutinized thoroughly, using the City of Citrus Heights agreement as a model. Unique provisions have been crafted to benefit the City of Elk Grove.

Agenda Item No. 6.2 -- *Procurement of a City of Elk Grove Flag*

City Clerk Peggy Jackson reviewed the staff report on the procurement of a City flag for use in the Council Chambers, for convention displays, and for the outdoor City Hall flagpole. After a brief discussion, it was concluded that the cost of the flags was under the \$5,000 threshold requiring bids. It was also concluded that 3' x 5' flags should be purchased rather than the 4' x 6' flags.

There were no requests by the public to address the Council regarding the purchase of the flag.

Motion: *Council Member Scherman moved and Council Member Leary seconded, a motion to purchase 3' by 5' flags and accessories as represented in the staff report. The motion passed by a vote of 5-0.*

Agenda Item No. 6.3 -- *Elk Grove Boulevard – Old Town Project, Elk Grove-Florin Road to Waterman Road; Presentation of Proposed Schedule, Scope of Work for Phase One, Financing, Consultant Approval, and Authorizing of Project Proceeding with the Department of Transportation*

Public Works Director Clay Castleberry referred to a conceptual drawing of the anticipated Elk Grove Boulevard improvements and explained that it is a multifaceted project. He stressed the importance of working with the Elk Grove Old Town merchants throughout the project development.

Phase I will address Elk Grove improvements between Elk Grove-Florin and Waterman Roads. He briefly discussed the funding and stated that negotiations are underway to obtain the engineering services of Carter Burgess for the main project. If that negotiation is successful, a contract will be brought back to Council for consideration.

Mr. Castleberry noted that before the plan starts, there are a number of issues to pursue, such as design and right-of-way acquisition. He noted there are funds available to initiate the project as proposed.

Motion: Council Member Leary moved and Council Member Briggs seconded to approve proceeding with the Elk Grove Boulevard Improvement project.

Mayor Cooper opened discussion for public comment.

Sarah Johnson voiced her support of going forward with the project. She also expressed the importance of business continuity and provision for adequate parking during the construction period. She noted that a request submitted to Assembly member Pescetti last year for a parking lot construction was rejected, and although it had failed, reapplication is possible.

She also urged that the Old Town Special Planning Area amendment go forward. She questioned relocating the light from Kent to School Street.

Ms. Johnson asked that Council direct staff to address the truck traffic issue on Elk Grove Boulevard.

Frank Maita, President of the Old Town Merchants Association, expressed his support of the project and expressed concern regarding the project details. He stated that there are certain inconsistencies that should be addressed and stated the importance of continuing community input.

Mayor Cooper closed public comment.

Mayor Pro Tem Soares requested clarification on the projected costs and allocations. While the project cost is estimated at \$6.8 million, revenues from three sources are

placed at \$4.25 million. He questioned the source of the additional monies required to complete the project.

Mr. Castleberry noted that the estimates included substantial inflation increases in excess of \$1 million, which may be unrealistically high. He stated that he believes the listed items can be completed for very close to the amount of funds currently available. Mr. Castleberry noted that there is substantial pre-construction work to be done and actual street work may not take place for two years. During that time, the sources of revenue may have increased as well. Mr. Castleberry confirmed that should additional funds be required, the Public Works staff will return to the Council with an alternate recommendation.

Council Member Briggs supported comments made by Ms. Johnson relative to parking and requested that a report be brought back to address parking mitigation as project construction nears.

Council Member Scherman expressed her support for placing the light at School Street. She also questioned the inconsistency of the cost projections for handicapped access to sidewalks.

Mr. Jeff Townsend responded that these costs variations may be attributed to specialty enhancements, such as scored pavements or colored concrete.

Note: Council Member Briggs briefly vacated the chambers after the motion was made and before the vote was taken.

Motion: Council Member Leary moved and Council Member Briggs seconded to approve proceeding with the Elk Grove Boulevard Improvement project. The motion passed by a vote of 4-0; absent from the vote: Council Member Briggs.

Mayor Cooper called a brief recess and the meeting resumed at 9:05 p.m.

Agenda Item No. 6.4 -- *Report on Various Traffic Concerns*

Public Works Director Castleberry stated that the Council had requested a report on several traffic related issues.

He reported that a traffic survey had been conducted on Elk Grove and Laguna Boulevards, to ascertain the appropriate speed limits for each street. Mr. Castleberry reported that while the posted speed limit on Laguna Boulevard is within a reasonable range of speeds traveled, cars are traveling much faster than the posted speed limit on Elk Grove Boulevard, west of State Route 99.

Mr. Castleberry explained that based on the data collected, the appropriate speed limit for Elk Grove Boulevard west of State Route 99 should be posted at 50 to 55 mph. He explained that a motorist cited for traveling at 55 mph in the posted 45 mph area would likely escape a fine as the posted area is not appropriately marked as supported by the survey. He requested Council direction on changing the speed limit.

He reported that the projects on lengthening the Bond Road left turn lane and the installation of speed bumps on Tegan Road are in the process. Regarding the visibility on Bond and Grantline Roads, he concluded that there is no visual impairment, although motorists must be attentive at the intersection.

Council Member Leary noted that according to the study, the 45 mph speed limit on Laguna is probably the lowest that it should be posted. Regarding the speed limit on Elk Grove Boulevard, the record concludes that in order to effectively institute radar enforcement, the speed limit should likely be posted at 50 mph. He noted that the Court would not likely recognize citations issued under the current 45 mph posting as the majority of vehicles are traveling more than 5 miles per hour above that posted speed limit. Council Member Leary also noted that the presence of traffic enforcement officers should serve to deter speeding. He felt that the increased speed limit should start west of Auto Mall Center Drive.

Council Member Briggs noted that with the additional vehicular traffic that will result with the East Franklin and Poppy Ridge residential developments, the flow and speed of traffic would likely diminish. He questioned whether the speed limit should be reduced prior to realizing the impact of additional development.

Mayor Cooper explained that while he was not pleased with raising the speed limit, in order to institute radar enforcement, it is necessary to increase the speed limit. He noted that after some period of time, another study could be initiated to reconsider the appropriate speed limit.

Initially, **Council Member Scherman** opposed raising the speed limit on Elk Grove Boulevard. After further explanation on the enforceability of citations issued under current postings, she voiced her support to increase the speed limit to 50 mph.

Randy Foust, a traffic engineer with the Department of Transportation, explained that the posting of speed limits is directly related to enforceability and compliance. Mr. Foust, in response to Council Member Briggs, explained that certified traffic surveys are done every five years. For any street on which radar enforcement is instituted, there must be a valid speed survey. The past surveys performed the County of Sacramento can be used by the City of Elk Grove. If the speed limits are changed, it must be as a result of speed survey. Surveys are not necessary for radar enforcement for streets that are posted 25 mph.

In response to Council Member Scherman's question regarding the 25 and 35 mph speed limits on Elk Grove Boulevard east of Highway 99, **Mr. Foust** responded that there might be some invalid speed limit or reason for the variance, but that the area would be reviewed.

Mayor Cooper requested the record show that he reluctantly supports the speed limit increase and that in order for Elk Grove Boulevard be radar enforceable, it is necessary to increase the speed limit. The speed limit should be reviewed in a year or so to determine whether reducing the speed limit to 45 mph is appropriate.

Sarah Johnson stated that had the agenda item title been more explanatory, more people may have been in attendance to hear and understand the reasoning for increasing the speed limit.

Agenda Item No. 6.5 -- *Determine Whether to Create an AD-HOC Committee of the City Council to meet with Council District Specialist to Evaluate Qualifications and Recommend to the City Council Appropriate*

At the request of City Attorney Manzanetti, this item was pulled from the agenda.

GENERAL ADMINISTRATION INFORMATION

There were no general administration reports.

COUNCIL COMMENTS/FUTURE AGENDA ITEMS

Council Member Leary questioned about the Operation Lifesaver Program presentation the previous evening and whether a city representative attended.

Mr. Jinkens reported that no City staff was in attendance. He also noted that a presentation is to be scheduled before the City Council.

Mr. Leary stated that in the future, it would be appropriate for a city staff member to attend.

Council Member Leary suggested that as a public safety enhancement, City patrol cars be equipped with an Opticom System. He explained that this is a system wherein a signal is emitted from the emergency vehicle to the traffic signal, giving priority passage through intersections to emergency vehicles by signaling a green light. He noted that the system in place has been funded through the Community Services District. He reported that the cost is approximately \$1,000 per vehicle. He suggested sharing the

costs of the system maintenance with CSD. Council Member Leary stated that this is a small cost compared to what might be achieved to enhance public safety.

Council Member Briggs noted that he had requested the issue of traffic signal synchronization be considered, especially for turn lanes and the Elk Grove and Laguna Boulevard thoroughfares.

He also announced that he would be attending the Land Planning Institute and will not be attending the March 21 Council meeting.

Council Member Scherman questioned who is responsible for maintaining the median strip adjacent to the Jerry Strong Park.

Mayor Cooper directed staff to look into the matter.

Council Member Scherman asked that the Council receive a report on the City's budgetary status.

CLOSED SESSION

No closed sessions were scheduled.

ADJOURNMENT

There being no further city business to conduct, Mayor Cooper adjourned the meeting at 9:40 p.m. The next City Council Meeting is scheduled for March 28, 2001 at the Robert L. Trigg Education Center Board Room, 9510 Elk Grove-Florin Road, at 6:30 p.m.

PEGGY JACKSON, CITY CLERK
CITY OF ELK GROVE

ATTEST:

JAMES A. COOPER, MAYOR
CITY OF ELK GROVE