

CITY OF ELK GROVE

Incorporated July 1, 2000

MINUTES OF THE CITY COUNCIL REGULAR MEETING Wednesday, November 5, 2003 CITY HALL COUNCIL CHAMBERS

CALL TO ORDER/ROLL CALL

Mayor Scherman called the November 5, 2003 regular City Council meeting to order at 8:14 p.m.

Present: Mayor Scherman, Mayor Pro Tem Soares, Councilmembers Briggs, Cooper, and Leary

Absent: None.

Councilmember Leary led the Pledge of Allegiance.

PUBLIC COMMENT

Lisa Dixon, addressing Mayor Pro Tem Soares, noted that in reference to her comments criticizing Council's actions, she is not a city employee, but rather a volunteer serving on the Trail's committee. She noted that only one of three Councilmembers, Mayor Scherman, had responded to her invitation to tour the Grant Line Road Sheldon area to consider how the widening of Grant Line Road will impact Sheldon residents. Ms. Dixon also questioned the Council's objective in having a presentation by John Cornwall of Quest Consultants, Inc.

Sylvia Perez reiterated complaints about the incompatible zoning of Ultra Truck Works to the surrounding neighborhood. She cited several code violations of the business.

APPROVAL OF AGENDA

Motion: *M/S Briggs/Cooper to approve the agenda. The motion passed by the following vote: Ayes: 5; Noes: 0*

PRESENTATIONS/ANNOUNCEMENTS

None.

CONSENT CALENDAR ITEMS

Prior to approval of the consent calendar, **Lisa Dixon, Sharon Lynes and Dannetta Garcia** made comments relative to Agenda Item Nos. 5.4 and/or 5.5. Comments included objection to approval of the agreement with Pacific Municipal Consultants for planning and other related services and approval of securing legal services relative to redistricting relative to the Laguna West annexation.

Motion: *M/S Briggs/Cooper to approve the consent calendar items. The motion passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 5.1: *Approve Warrant Listing through October 22, 2003 (Warrants 007328 through 007440) and Warrant Listing through October 24, 2003 (Warrants 007441 through 007513)*

Approved by Consent

Agenda Item 5.2: *Approve Monthly Treasurer's Report for August 2003*

Approved by Consent

Agenda Item 5.3: *Approve Minutes of the September 17, 2003 Regular City Council Meetings*

Approved by Consent

Agenda Item 5.4: *Resolution 2003-205 authorizing the City Manager to execute an agreement with Pacific Municipal Consultants, Inc. (PMC) for general planning and related services*

Approved by Consent

Agenda Item 5.5: *Authorizing the City Manager to execute on behalf of the City of Elk Grove the engagement letter and retainer agreement with the law firm of Howrey Arnold Simon & White for the limited purposes of providing legal services to the City through the City Attorney regarding the upcoming redistricting*

Approved by Consent

Agenda Item 5.6: *Authorizing the City Manager to execute on behalf of the City of Elk Grove the indemnification agreement with the Rock Church, Sacramento County Water Agency and the Elk Grove Community Services District for the limited purposes of allowing the Rock Church project to construct a foundation only with an approved plan for funding water to the project*

Approved by Consent

Agenda Item 5.7: *Resolution 2003-206 approving the final map for Van Ruiten Ranch Unit 2, subdivision No. 00-025.3 and authorize the Mayor to execute a subdivision improvement agreement between the City of Elk Grove and Chesapeake-Ripon Lot Option, L.P., A California Limited Partnership*

Approved by Consent

Agenda Item 5.8: *Resolution 2003-207 approving the final map for Gilliam Meadows Unit 2, subdivision No. 02-356.02 and authorize the Mayor to execute a subdivision improvement agreement between the City of Elk Grove and Reynen & Bardis (Gilliam Meadows), L.P., a California Limited Partnership*

Approved by Consent

Agenda Item 5.9: *Resolution 2003-208 approving and authorizing the Mayor to execute an agreement for Transfer of Drainage Easements and Rights-of-Way between the City of Elk Grove, the County of Sacramento, and the Sacramento County Water Agency*

Approved by Consent

Agenda Item 5.10: *Resolution 2003-209 authorizing the City Manager to execute a program supplement to the Caltrans master agreement for its master plan grant*

Approved by Consent

Agenda Item 5.11: *Resolution 2003-210 approving the appropriations limitations and calculations for fiscal years 2002-03 and 2003-04*

Approved by Consent

PUBLIC HEARINGS

Agenda Item 6.1: *Continued Public Hearing: Bond Road 17, Project No. EG-02-380: to consider a Rezone of 17.46 acres from AR-5 and AR-5(F) to RD-5, a Tentative Subdivision Map creating 62 single family lots and associated landscape lots, and Design Review for residential development*

Location: South side of Bond Road, east of Elk Grove-Florin Road

RECOMMENDATION: Staff recommends that Bond Road 17, Project Nb. EG-02-380 be continued to November 19, 2003

Mayor Scherman declared the public hearing open at 8:43 p.m.

Mayor Scherman opened the public comment opportunity.

The following persons spoke in support of the project: **Troy Newbold, John Popham, Dean Trafton, Les Fifth, Don Somers.** **Pat Koenig** suggested that the zoning for properties adjacent to the railroad tracks be changed to RD-3.

Mayor Scherman closed the public comment opportunity at 9:21 p.m.

Relevant to the Bond Road widening funding, **Mr. Carter** stated that while the funds are available in the roadway fund to pay for improvements, rights of way have not been acquired. He also noted that Council will be provided with information in order to

prioritize the expenditure of the funds in conjunction with the capital improvement program.

Steve Flint, Project Planner, noted staff's recommendation for amended and Conditions of Approval:

- ▶ **Condition No. 38.** Amend to eliminate the right-turn, right-out only, right in, right out only at both "A" and "B" intersections. These intersections will be modified in accordance with the Bond Road widening project, subject to approval by the City Engineer, to allow the flexibility to create the left turns as the design will provide.
- ▶ **Condition No. 53.** The extension of the soundwall will include lots 21 and 22.
- ▶ **Condition No. 57.** Added condition requiring the applicant to the property buyers that the subdivision is in close proximity to an active railroad line which could result in activity interference and annoyance due to train or noise events that are expected to occur during daytime and nighttime hours.
- ▶ **Condition No. 58.** Added condition that the applicant shall construct improvements to Bond Road in accordance with the City-initiated Bond Road widening project and as represented to the Council at this meeting of 11/05/03, including full improvement of the Elk Grove-Florin and Bond Road, widening of the north side of Bond Road adjacent to the Strong Ranch property, and meeting design to the satisfaction of the City Engineer. Project improvements will be reimbursed through the traffic impact fee. The cost of widening Bond Road adjacent to the project site is not subject to reimbursement.

City Attorney Manzanetti stated that with regard to the condition relevant to the traffic impact fees, it should be clear in the condition that the City has no liability for reimbursement except from the traffic impact fees and that reimbursement from the City shall be contingent on the continued availability of the traffic impact fees.

Mayor Scherman voiced her opposition to the roadway widening plans.

Motion 1: *M/S Leary/Cooper to adopt the mitigated negative declaration for the Bond Road 17 project. **The motion was passed by the following vote: Ayes: 3; Noes: 2 (Soares, Scherman)***

Motion 2: *M/S Cooper/Leary to introduce and waive the full reading by substitution of title only, **Ordinance No. 40-2003**, an ordinance of the City Council of the City of Elk Grove amending the Elk Grove Zoning Map from AR-5 and AR-5(F) to RD-5 for the Bond Road 17, Project No. EG-02-380. **The motion was passed by the following vote: Ayes: 3; Noes: 2 (Soares, Scherman)***

Motion 3: *M/S Cooper/Leary to adopt **Resolution 2003-211** approving a tentative subdivision map and residential design review for the Bond Road 17, Project No. EG-*

02-380, subject to findings and MMRP and amended (COA 38, 53) and added (COA 57) Conditions of Approval. **The motion was passed by the following vote: Ayes: 3; Noes: 2 (Soares, Scherman)**

Agenda Item 6.2: Public Hearing: Chevron Conditional Use Permit (CUP) Amendment, Project No. EG-03-455: to consider modifying the hours of operation for a gasoline station and convenience store from an existing time of 6:00 a.m. to 10:00 p.m. to the time of 5:00 a.m. to 11:00 p.m.

Location: Northwest corner of Big Horn and Elk Grove Boulevards

RECOMMENDATION: At the conclusion of the public hearing, consider the Planning Commission's recommendation to adopt a resolution approving the Conditional Use Permit Amendment for the Chevron Station, Project No. EG-03-455, subject to the Findings and Conditions of Approval

Stuart Wagner, project planner, reviewed the applicant's request to modify operational hours.

Mayor Pro Tem Soares requested information on a similar condition for other projects on the availability of alcoholic beverages after specified hours and on the hours of operations for other convenience stores.

After the staff report and prior to taking action on Agenda Item No. 6.2, the Council continued to Agenda Item No. 6.3 to allow staff to review conditions of approval for previously approved Conditional Use Permits relative to selling alcohol beverages from rolling ice tubs.

Mayor Scherman declared the public hearing open at 9:54 p.m.

Bruce Evans, Chevron representative, provided clarification that the Business and Professions Code section 23790.5 prohibits selling alcohol beverages from ice tubs. He also noted meeting with Assistant Police Chief Ed Kelly who could provide no justification for opposing the request.

With no public requests to speak, **Mayor Scherman** closed the public comment opportunity.

Motion: M/S **Leary/Cooper** adopting **Resolution 2003-212** approving the Conditional Use Permit Amendment for the Chevron Station, Project No. EG-03-455, subject to the Findings and Conditions of Approval. **The motion was passed by the following vote: Ayes: 4; Noes: 1 (Soares)**

Agenda Item 6.3 Public Hearing: Swainson's Hawk permanent fee, interim Swainson's Hawk fee, and repeal previous Swainson's Hawk fee

RECOMMENDATION: Adopt by resolution approving the Swainson's Hawk interim fees, repealing Resolution No. 2003-169, and adopting the permanent Swainson's Hawk fees

Mayor Scherman declared the public hearing open at 9:50 p.m. (This item was heard prior to Council's action on Agenda Item No. 6.2.

Mayor Scherman opened the public comment opportunity.

Lisa Dixon urged the location of habitat within the City limits.

Mayor Scherman closed the public comment opportunity at 9:52 p.m.

Motion: *M/S Cooper/Leary adopting Resolution 2003-213 approving the Swainson's Hawk interim fees, repealing Resolution No. 2003-169, and adopting the permanent Swainson's Hawk fees with direction to staff to study potential habitat sites within the city limits. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 6.4 *Public Hearing: Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE)*

RECOMMENDATION: Accept public testimony on the Source Reduction and Recycling Element and the Household Hazardous Waste Element; and direct staff to return the final drafts for adoption by resolution on December 17, 2003

Frank Oviedo, Assistant to the City Manager, reported that this is the opportunity for the public to comment on the preliminary draft of the documents. Mr. Oviedo noted that the item will return on December 17 with modifications for the Council's approval.

Mayor Scherman declared the public hearing open at 10:05 p.m.

With no public requests to speak, **Mayor Scherman** closed the public comment opportunity at 10:06 p.m.

Motion: *M/S Leary/Briggs to accept public testimony on the Source Reduction and Recycling Element and the Household Hazardous Waste Element and direct staff to return the final drafts for adoption by resolution on December 17, 2003. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 6.5 *Public Hearing: Community Facilities District No. 2003-2 (Police Services): to consider establishing Community Facilities District No. 2003-2 (Police Services) and calling an election, declaring special election results; levying and apportioning special tax (Resolutions/Ordinance)*

RECOMMENDATION:

1. Adopt a resolution establishing Community Facilities District No. 2003-02 (Police Services); calling an election for the purpose of submitting the levy of the special tax and the establishment of an appropriations limit to the qualified electors of the district
2. Adopt a resolution declaring the results of the special election held on November 5, 2003 in Community Facilities District No. 2003-2 (Police Services)
3. Introduce and waive the full reading by substitution of title only, an ordinance of the City Council of the City of Elk Grove Levying and apportioning the special tax in Community Facilities District No. 2003-2 (Police Services)

Mayor Scherman declared the public hearing open at 10:10 p.m.

Joe Chinn, Finance Administrator, stated that on October 1, 2003, the City Council adopted a resolution of intention to consider formation of the district. Ballots were mailed to landowners and have been returned. The City Clerk should tabulate the election results and return the election results to the Council for ratification and adoption of resolutions.

With no public requests to speak, **Mayor Scherman** closed the public comment opportunity at 10:11 p.m.

Motion 1: *M/S Soares/Scherman to adopt Resolution 2003-214 establishing Community Facilities District No. 2003-02 (Police Services); calling an election for the purpose of submitting the levy of the special tax and the establishment of an appropriations limit to the qualified electors of the district. **The motion was passed by the following vote: Ayes: 5; Noes: 0***

Clerk's Note:

The ballot measure question considered by the qualified electors of the district is as follows:

Shall the City of Elk Grove be authorized to levy a special tax at the rates and apportioned as described in Exhibit B to the Resolution of Formation (the "Resolution of Formation") for Community Facilities District No.2003-2 (Police Services) (the "District") adopted by the City Council on November 5, 2003, which is incorporated herein by this reference, within the District to finance certain police services as set forth in Exhibit A to the Resolution of Formation and shall an appropriations limit be established for the District in the amount of the special taxes collected?

Following adoption of Resolution No. 2003-214, the Mayor dismissed the City Clerk to tabulate the votes of the special election. During the recess from the public hearing, the meeting continued to consider the General Administration and Council Comment agenda items.

The Mayor called for the City Clerk to announce the election results.

The City Clerk reported that of a possible 114 votes, 114 affirmative votes were cast to levy the special tax and to establish the appropriations limit.

Motion 2: *M/S Leary/Briggs adopting Resolution 2003-215 to declare the results of the special election held on November 5, 2003 in Community Facilities District No. 2003-2 (Police Services). The motion was passed by the following vote: Ayes: 5; Noes: 0*

Motion 3: *M/S Leary/Scherman to introduce and waive the full reading by substitution of title only, Ordinance 41-2003 of the City Council of the City of Elk Grove Levying and apportioning the special tax in Community Facilities District No. 2003-2 (Police Services). The motion was passed by the following vote: Ayes: 5; Noes: 0*

REGULAR ACTION ITEMS/RECOMMENDATIONS

None.

GENERAL ADMINISTRATION INFORMATION

None.

COUNCIL COMMENTS/FUTURE AGENDA ITEMS

Councilmember Leary

Requested an update on the RFP progress for disposal services.

Requested an update on the Planning Commissioner selection process.

Mayor Pro Tem Soares

Commented on the lack of professional ethics of the Sacramento Bee editorial board relative to misquotes of John Cornwell (Quest) resulting in putting Elk Grove in a bad light.

Requested that an item be added to the next agenda relative to Council direction to staff on the continued analysis of the law enforcement services contract. Staff was asked to apprise the Sheriff of Council's direction.

Councilmember Briggs

Asked that the City Clerk initiate the recruitment process for his appointment to the Planning Commission, for completion by December 10 for appointment after the annexation of Laguna West.

Announced Breakfast with Santa at the Applebee's Restaurant on December 13 from 8:00 a.m. to 10:30 a.m. The breakfast will be hosted by the Rotary Club.

Mayor Scherman

Announced the Veteran's Day parade on November 11, 2003 at 11:00 a.m., starting at the Community Services District and ending at Elk Grove Park. A hot dog lunch will follow at the park.

Announced that at the LAFCO meeting this evening, Elk Grove Community Services District Director Elliott Mulberg voted against the annexation.

In response to **Councilmember Leary's** question how this vote would impact the annexation, **City Attorney Anthony Manzanetti** responded that staff is still assessing the full impact.

Mayor Scherman asked that staff check on whether there was a conflict on Mr. Mulberg's part.

Council returned to item 6.5 to consider the election results (see item).

CLOSED SESSION

After providing an opportunity for public comment, the City Council adjourned to closed session at 10:20 p.m.

A) CONFERENCE WITH LEGAL COUNSEL – Existing Litigation

2 Cases

Pursuant to Subdivision (a) of Section 54956.9

1. State of California and South County Citizens for Responsible Growth v. M&H Development, City of Elk Grove. California District Appellate Report (3rd) Case No. C 042302 (Appeal from Sacramento Superior Court, J. Connelly)

2. State of California et al. v. Unocal Corporation et al.
Sacramento Superior Court Case No. 03AS05452

The Council reconvened the regular session at 10:25 p.m. Mayor Scherman stated that no reportable action was taken during closed session.

ADJOURNMENT

With no other business for the Council to consider, the meeting was adjourned at 10:25 p.m.

PEGGY E. JACKSON
CITY CLERK

ATTEST:

SOPHIA SCHERMAN, MAYOR
CITY OF ELK GROVE