

CITY OF ELK GROVE

Incorporated July 1, 2000

**MINUTES OF THE CITY COUNCIL
REGULAR MEETING
Wednesday, January 21, 2004
CITY HALL COUNCIL CHAMBERS**

CALL TO ORDER/ROLL CALL

Mayor Scherman called the January 21, 2004 regular City Council meeting to order at 6:30 p.m.

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

Absent: None.

City Manager John Danielson led the Pledge of Allegiance.

PUBLIC COMMENT

None.

APPROVAL OF AGENDA

Motion: *M/S Leary/Briggs to approve the agenda; continuing Agenda Item No. 6.5 (Shell Oil) to February 4, 2004; removing Agenda Item No. 6.4 (8840 Bruceville Road Street abandonment) from the agenda. **The motion passed by the following vote: Ayes: 5; Noes: 0.***

PRESENTATIONS/ANNOUNCEMENTS

None.

CONSENT CALENDAR ITEMS

Motion: *M/S Briggs/Leary 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 January 5, 2004 (Warrants 007965 through 008091)

Approved by Consent

Agenda Item 5.2: Approve Minutes of the Regular/Adjourned City Council Meeting of November 19, 2003 to December 1, 2003 and the minutes of the December 5, 2003 Special City Council meeting

Approved by Consent

Agenda Item 5.3: Adopt **Ordinance No. 2-2004**, an ordinance of the City Council of the City of Elk Grove authorizing the setting, charging, collecting, and enforcement of residential hauler fees (**Second Reading**)

Approved by Consent

Agenda Item 5.4: **Ordinance No. 3-2004**, an ordinance of the City Council of the City of Elk Grove Amending the Elk Grove Zoning Map from MP to BP and Rescind Zoning Agreement 95-0362 for the CSAA Master Plan Appeal Project No. EG-03-525 (**Second Reading**)

Approved by Consent

Agenda Item 5.5: **Resolution 2004-7** approving the final map for Gilliam Meadows Unit 1C and authorizing the Mayor to execute a subdivision improvement agreement between the City of Elk Grove and Centex Homes a Nevada General Partnership

Approved by Consent

Agenda Item 5.6: **Resolution 2004-8** authorizing the City Manager to execute an amended agreement with Nichols Consulting Engineers, Chtd., for the development and implementation of a Computerized Pavement Management System

Approved by Consent

Agenda Item 5.7: **Resolution 2004-9** authorizing the City Engineer to submit the Fiscal Year 2004-05 Measure A Expenditure Plan to the Sacramento Transportation Authority (STA)

Approved by Consent

Agenda Item 5.8: **Resolution 2004-10** authorizing the City Manager to execute an amended agreement with EDAW, Inc. for additional environmental consulting services related to the Grant Line Road/State Route 99 Interchange Reconstruction Project

Approved by Consent

Agenda Item 5.9: Accepting the Annual Report on Development Impact fees for Fiscal Year Ended June 30, 2003

Approved by Consent

Agenda Item 5.10: Authorizing the City Manager to execute a contract with Disability Access Consultants (DAC) for completion of the City's Americans with Disabilities Act (ADA) required Self-Evaluation and Transition Plan in an amount not to exceed \$82,000
Approved by Consent

Agenda Item 5.11: **Resolution 2004-11** authorizing the setting, charging, collecting and enforcement of residential hauler fees at 6% of gross revenue
Approved by Consent

Agenda Item 5.12: Authorizing the Mayor to execute an Amended and Restated Employment Agreement -- City Attorney
Approved by Consent

Agenda Item 5.13: Authorizing the City Manager to execute a Rescission and Termination of Declaration of Amended and Restated Declaration of Covenants, Conditions and Restrictions (CC&R's) of Laguna Palms Office Park
Approved by Consent

PUBLIC HEARINGS

Agenda Item 6.1: *Public Hearing: Tax Equity and Fiscal Responsibility Act (TEFRA) hearing for the issuance of bonds by the California Statewide Communities Development Authority on behalf of Sutter Health, Sutter Medical Foundation, and other affiliates of Sutter Health*

RECOMMENDATION: Adopt a resolution approving tax-exempt bond financing to be issued by the California Statewide Communities Development authority to benefit Sutter Health and certain affiliates

Les Tyler, Administrative Services Director, explained that the IRS Code requires a TEFRA hearing for local governments having jurisdiction over the area in which the project is located. A portion of the bonds will be used for a clinic within the City limits of Elk Grove. There is no financial obligation to the City.

Mayor Scherman declared the public hearing open at 6:35 p.m.

With no public requests to speak, **Mayor Scherman** closed the public comment opportunity at 6:36 p.m.

Motion: *M/S Leary/Briggs to adopt Resolution 2004-12 approving tax-exempt bond financing to be issued by the California Statewide Communities Development authority to benefit Sutter Health and certain affiliates. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 6.2: *Public Hearing: to vacate various Public Utility Easements, a tree planting and maintenance easement, and two visibility easements on Hospenthal Way; and Vacation of Ingress and Egress Rights to East Stockton Boulevard*

RECOMMENDATION: Adopt a resolution approving the vacation of various Public Utility Easements, a tree planting and Maintenance Easement, and two Visibility Easements on Hospenthal Way; and Vacation of Ingress and Egress Rights to East Stockton Boulevard

City Engineer Bob Lee provided a brief staff report.

Mayor Scherman declared the public hearing open at 6:37 p.m.

Mayor Scherman opened the public comment opportunity.

Darlene Masten-Schmitz and **William E. Schmitz**, requested an explanation of what is planned for the abandoned property. They also requested an address change as it is difficult to get mail or other express delivery to the Hospenthal street address. Mr. Schmitz voiced his opposition to the abandonment. Both were referred to City Engineer Bob Lee for additional explanation and resolution to their concerns.

Motion: *M/S Cooper/Briggs to continue the public hearing to February 4, 2004. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 6.3: *Public Hearing: to vacate a 35-foot Public Utility Easement at Laguna Business Park*

RECOMMENDATION: Adopt a resolution approving the vacation of a Public Utility Easement at the Laguna Business Park located south of Laguna Boulevard and West of Big Horn Boulevard

Mayor Scherman declared the public hearing open at 6:45 p.m.

City Engineer Bob Lee provided a brief staff report.

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

Motion: *M/S Briggs/Leary to adopt Resolution 2004-13 approving the vacation of a Public Utility Easement at the Laguna Business Park located south of Laguna Boulevard and West of Big Horn Boulevard. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item No. 6.4 was removed from the agenda at the approval of the agenda.

Agenda Item 6.4: *Public Hearing: Public Hearing: to vacate a portion of a Public Street Easement*

RECOMMENDATION: Adopt a resolution approving a vacation of the public street easement located at 8840 Bruceville Road

Note: *Agenda Item No. 6.5 was continued at the approval of the agenda to February 4, 2004.*

Agenda Item 6.5: *Public Hearing: Shell Gas Station, Project No. EG-03-556: to consider an appeal of the Planning Commission's denial of requests 1, 3, 5, 6, 7 and 8 proposed by Shell Oil Co. under project application Development Plan Review EG-03-459, which consists of facility exterior improvements and installation of a freestanding sign*

RECOMMENDATION: Consider the Shell Gas Station denial by the Planning Commission:

1. The City Council can uphold the Planning Commission's denial of requests 1, 3, 5, 6, 7 and 8 and direct staff to prepare a resolution for denial
2. The City Council can uphold the appeal petition and approve requests 1, 3, 5, 6, 7 and 8 and direct staff to prepare a resolution for approval of the Shell Gas Station, Project No. EG-03-556

Agenda Item 6.6: *Public Hearing: Sheldon Place, Project No. EG-02-348: to consider revisions previously heard, request an amendment to the Calvine 99 Special Planning Area Land Use Plan (Section 508-212.3) to create a new 1.6-acre park site, and a Tentative Subdivision Map and Design Review for 197 single-family lots. The revisions consist of a reduction of the proposed single-family residential lots from 197 to 174 and the addition of a pedestrian observation area*

Location: *East of Highway 99, south of Orchard Park, between Calvine Road and Sheldon Road*

RECOMMENDATION: At the conclusion of the public hearing, consider the Planning Commission's recommendation as follows:

1. Adopt the Mitigated Negative Declaration for Sheldon Place, Project No. EG-02-348
2. Introduce and waive the full reading, by substitution of title only, an ordinance of the City Council of the City of Elk Grove amending the Calvine 99 Special Planning Area, Section 508-212.3 for a project known as Sheldon Place, Project No. EG-02-348
3. Adopt a resolution approving a Tentative Subdivision Map and Design Review for Sheldon Place, Project No. EG-02-348, subject to the Findings and MMRP/Conditions of Approval

Mayor Scherman declared the public hearing open at 6:47 p.m.

Mel Pabalinos, Project Planner, provided an overview of the applicant's request. He noted that the project was previously considered on August 6, 2003 and directed that the project conform to RD-5 zoning density. He noted that the project design now conforms to an RD-5 and RD-7 density. Mr. Pabalinos noted staff's recommendation to the Council of project approval as revised.

Mr. Pabalinos noted correction to Condition of Approval No. 52, to read:

*Soundwall shall be constructed according to the noise study performed by Bollard and Brennen for the lots along the western boundary of the project. Final location, design and height shall be reviewed and approved by Planning. Single story structures shall be required for **Lots 21 through 31 in Village 2, and lots 33 through 37** shall be insulated according to Table 6 of the Noise Study.*

Mayor Pro Tem Soares emphasized that the direction provided by the Council at the August 6, 2003 City Council meeting was for the project to return with RD-5 zoning.

Greggory Thatch, representing the applicant, requested the Council approve the proposed project as revised as it conforms with the Calvine / 99 SPA requirement for a minimum density of six units per acre.

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

There was general Council discussion and consensus that RD-5 is the preferred zoning for the area.

Motion: *M/S Cooper/Scherman* to continue the hearing to an unspecified date. **The motion carried by the following vote: Ayes: 5; Noes: 0**

REGULAR ACTION ITEMS/RECOMMENDATIONS

Agenda Item 7.1: Recognize Councilmember Leary's appointee to the Elk Grove Trails Committee

RECOMMENDATION: Acknowledge Councilmember Leary's appointee to the Elk Grove Trails Committee

Councilmember Leary announced the appointment of Sharon Anderson to the Elk Grove Trails Committee.

GENERAL ADMINISTRATION INFORMATION

a) Report on gender and ethnicity of City staff

Assistant City Manager Terry Fitzwater reported that the City's thirty-six employees are of the following makeup: 23 (64%) female; 11 (31%) minority; both numbers reflect a healthy diversity profile. Regarding the Police Department employees, 22% are female; 29% are minority. Contractors employees are 32% female, 23% minority.

Regarding hiring practices, of the last five hires of the city, five (42%) were female, and four (33%) are minority.

Councilmember Cooper requested a copy of the report.

Councilmember Leary requested information on whether the City's employee makeup is reflective of the community.

b) Swainson's Hawk status update

Beth Thompson of the Planning Department, provided an overview of staff's efforts relative to the City's Swainson's Hawk program and the implementation of General Plan Policy LU-17.

Ms. Thompson noted Council's direction to staff:

1. Prepare a study to provide the basis for a permanent mitigation fee for the Swainson's Hawk foraging program;
2. Consult with the Department of Fish and Game (DFG), Building Industries Association (BIA), conservancies and other interested parties;
3. Conduct a public workshop with the Planning Commission;
4. Release an RFP to local conservancies;
5. Return information to the Council for final approval.

Ms. Thompson presented a timeline of events since September 2003 during which time staff presented the interim Swainson's Hawk fee and an ordinance revising the program. In November 2003, the Council adopted the permanent Swainson's Hawk Fee. Staff initiated consultation with DFG, expected to continue through October 2004. There is an on-going interim acquisition process in place and staff anticipates a permanent acquisition process in October – November, 2004.

Ms. Thompson noted that in on-going discussions with DFB, staff has requested a map designating suitable sites for Swainson's Hawk habitat with an interim map expected by next week.

Ms. Thompson also stated that a draft agreement has been presented to DFG for review and response. She projected a six-month contract negotiation period. The

agreement will streamline the process of selecting and purchasing habitat by identifying site criteria accompanied by a map, standardizing easement and deed of trust language, identifying purchase and management authorities and profiles, identifying long-term use and management requirements, establishing mechanisms for property ownership transfers and providing remedies should easements or deeds be violated.

A Planning Commission workshop will be held once comments on the proposed agreement are received from the DFG. Following the workshop and receipt of the approved map from DFG, proposals will be requested of conservancies. It is anticipated that the city's open space policy and habitat programs will work in concert.

Ms. Thompson anticipates that proposals will be sought annually to conservancies for Swainson's Hawk sites. The RFP will identify the amount of funding available, anticipated acreage and funding priorities. The DFG map will be regularly updated to reflect land-use changes.

Ms. Thompson noted that staff has identified twelve potential properties for habitat; not all acceptable by DFG.

Relative to open space, Ms. Thompson stated that pursuant to General Plan Land Use Policy LU-17, within 90 days of Plan adoption staff will present options to Council for developing an open space program. The presentation will address methods for long-term open space protection, options for acquiring property, funding mechanisms, types of open space, and an overview of selected regional and state open space programs.

c) Mid-Year budget review

Les Tyler, Administrative Services Director, reported that the total estimated reduction for the Vehicle License Fee (VLF) is \$1.6 Million based on current information. Intergovernmental Liaison Cody Tubbs continues to closely monitor the State's actions. The City currently has four unfilled positions, none of which affect the City's general fund (paid from enterprise and special revenue funds). The Police Department has six unfilled non-management positions which could remain vacant for the remainder of the fiscal year should Council direct (a salary savings of \$257,000).

A full Mid-year review of the budget will be presented at the February 18, 2004 meeting.

d) Laguna Boulevard traffic signal light synchronization

City Engineer Bob Lee reported that in response to Council Comments at the last Council meeting, traffic engineering is looking at Laguna Boulevard to see how the traffic signal function might be improved. In March, staff will be presenting information on the City's capital projects and will provide details on the City's plans are for traffic signal operation improvements.

City Attorney Anthony Manzanetti reported receiving a letter from Nancy Miller, legal counsel to LAFCo regarding the February 4 meeting to consider the City's annexation of Laguna West mitigation issues. Ms. Miller informs the City that her firm has recently been discovered that their office has a conflict of interest in that they represent Regional Transit in acquisition matters. This conflict of interest may present a problem in their continuing representation to LAFCo.

Ms. Miller's letter noted that their firm will request a waiver of the conflict of interest of the LAFCo commission at the February 4 meeting. If LAFCo agrees to the waiver, the City of Elk Grove and Regional Transit must also be asked to approve the waiver. The review of Elk Grove's mitigation performance will be deferred until the March LAFCo meeting.

COUNCIL COMMENTS/FUTURE AGENDA ITEMS

Councilmember Briggs

- Noted that a year ago, he was appointed to the Sacramento Transportation Authority as Vice-Chair for calendar year 2004. He explained that in conjunction with STA's campaign to generate voter support to extend Measure A, 800 persons were surveyed regarding various transportation projects. The preliminary results indicate that nearly 70% of those polled were in support of the extension. The STA board will receive a comprehensive report on the survey on February 9.

Councilmember Cooper

- Reported that he has been appointed Vice Chair to the SACOG Administrative Committee.
- Expressed concern over the City's ability to keep up with growth, with the number one priority on traffic, particularly with transportation funding being reduced by the State of California. Councilmember Cooper proposed diverting funds for immediate traffic infrastructure solutions, referencing funds collected for the Grant Line Road interchange as a possible source; (requested workshop).
- Stated his concerns relative to traffic circulation, enhanced parks and recreation facilities, and city facilities. Requested staff prepare a report on impacts to City's infrastructure funding by reducing growth by 50%, 33% and 25%.

Councilmember Leary

- Requested the Laguna Ridge Specific Plan be brought to the Council at the next meeting to discuss the merits of the project.

After considerable Council discussion relative to Laguna Ridge, infrastructure fees generated, and managed growth, by general consensus the City Manager was provided with the following direction:

- Staff to return with ideas on resolving immediate traffic congestion issues that have a sense of urgency in conjunction with capital improvement projects and return to the Council at the earliest possible date;
- Schedule a growth management presentation, preferably in February, and if staff is unable to finalize in February, schedule in March;
- Staff is to continue good-faith and meaningful negotiations with the Laguna Ridge representatives parallel to growth management study;
- Explore traffic solutions with Elk Grove Unified School District representatives, first through staff efforts; if necessary, at a future date direct staff on establishing a 2 X 2 for elected officials.

Councilmember Leary asked for reports on efforts between City and EGUSD staff efforts.

- Requested clarification on the terms of the revenue neutrality agreement.
 - In response to Councilmember Leary's question on the percentages of property tax division for new housing, **Administrative Services Director Les Tyler**, confirmed that new housing is subject to the neutrality agreement with a 90/10% split between the County and City, respectively. Revenue neutrality payments are made to the County quarterly. The City has a five-year payment plan for first-year transition costs with one-half of the costs paid to date.
- Recognized Steve Sperry, the new President of the Chamber of Commerce.

Mayor Pro Tem Soares

- Requested an update on federal grant funding secured through the Washington D.C. firm.

Mayor Scherman

- Extended her appreciation to Public Works staff for quick response to plugged storm drains during the last storm, particularly for senior citizens.
- Requested a status report on basketball hoop code enforcement.
- Congratulated Councilmembers Cooper and Briggs to new board appointments.
- Noted that she would provide report on SCRSD at the next meeting.

CLOSED SESSION

After providing the opportunity for public comment, the Council adjourned to closed session at 8:13 p.m.

A) CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation

Pursuant to Subdivision (b) of Section 54956.9
Two (3) Potential Cases

B) CONFERENCE WITH LEGAL COUNSEL – Existing Litigation

(4 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. (MTBE) Sacramento Superior Court Case No. 03AS05452
3. Labrasca v. City of Elk Grove et al., Sacramento Superior Court Case No. 03AS06204
4. Meyers v. City of Elk Grove et al., Sacramento superior Court Case No. 03AS05452

The regular City Council meeting reconvened at 8:53 p.m. Mayor Scherman requested the City Attorney to announced action taken during closed session.

City Attorney Manzanetti noted that on the matters of *Labrasca v. City of Elk Grove, et. al.*, and *Meyers v. City of Elk Grove, et. al.*, Council authorized the City Attorney and special counsel to prepare appropriate cross complaints to protect the City's interests. No other reportable action was taken on closed session items.

ADJOURNMENT

With no other business for the Council to consider, the meeting was adjourned at 8:55 p.m.

PEGGY JACKSON, CITY CLERK

ATTEST:

**SOPHIA SCHERMAN, MAYOR
CITY OF ELK GROVE**