

CITY OF ELK GROVE

Incorporated July 1, 2000

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

CALL TO ORDER/ROLL CALL

Mayor Scherman called the July 21, 2004 regular City Council meeting to order at 6:32 p.m.

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

Absent: None

Elizabeth Pinkerton led the Pledge of Allegiance.

PUBLIC COMMENT

The following persons offered public comment: **Constance Conley** (allegations of abuse of authority by Councilmember Leary); **Angie Butler, Bill Hibbard, William Portanova (legal Counsel), Robert Calvin, Chet Madison, Jr., Harvey Woo** (relative to conflict of interest violations allegations against Councilmembers Cooper and Leary, expenditure of funds for report); **Elizabeth Pinkerton** (presented the City with a copy of "History Happened Here"; complimented staff on solid waste collection transition process; requested signage to identify construction projects); **Herbert Benedict** (requested a meeting with staff to address property flooding caused by surrounding projects' construction); **Michael Jones** (announced National Night Out on August 3, 2004, 6:30 p.m. and encouraged participation); **Donell Slivka** (concerned that partisan politics were behind adoption of redistricting map and conflict of interest report); **Dannetta Garcia** (allegations of conflicts of interest by all councilmembers, Brown Act violations); **Braulio H. Torres** (parking limitations in Old Town); **Clyde Rainwater** (alleged racist reference by Councilmember Briggs; if investigations proceed relative to conflicts of interests pertaining to Councilmembers Cooper and Leary, Mr. Briggs should recuse himself from participation in that investigation).

Phil Carter noted that he would be meeting with Mr. Benedict next week to review Mr. Benedict's issues of concern.

APPROVAL OF AGENDA

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

PRESENTATIONS/ANNOUNCEMENTS

Agenda Item No. 4.1: Bicycle and Pedestrian Master Plan Review provided by Kristin Maravalia of the Planning Department and Steve Palmer of the Public Works Department (presentation filed) of plan development and implementation.

Mr. Palmer related that approval of the Master Plan by Council is required for State and Federal funding.

Lyle Bentley questioned how the rural Sheldon area would be affected with the addition of bicycle paths through the acquisition of property frontage and drainage infrastructure improvement. Requested Council consider other alternatives before approval.

City Engineer **Bob Lee** noted that the General Plan calls for Sheldon Road to be widened between Bradshaw and Grant Line Road to accommodate paths. He also noted, in response to questions from Councilmember Briggs, that staff is looking to update the Standard Specifications for wider sidewalk widths. Community workshops will be held in the Old Town area to address the paths planned.

CONSENT CALENDAR ITEMS

Prior to action on the consent calendar, City Clerk Peggy Jackson noted that the contract amount on Agenda Item No. 5.31 had changed from \$55,000 to \$60,500.

Motion: *M/S Cooper/Briggs to approve the consent calendar items except Agenda Item Nos. 5.10, 5.11, 5.14, 5.15. Councilmember Cooper noted that he and Councilmember Leary were recusing themselves from voting on Nos. 5.10, 5.11, 5.14, 5.15 due to a conflict created by their employment by the Sacramento County Sheriff's Department. The motion passed by the following vote: Ayes: 5; Noes: 0*

Motion: *M/S Soares/Briggs to approve Consent Calendar Item Nos. 5.10, 5.11, 5.14, 5.15. The motion passed by the following vote: Ayes: 3; Noes: 0; Recusals: 2 (Cooper, Leary).*

Agenda Item 5.1: *Approve Warrant Listing through June 22, 2004 (Warrants 009251 through 009389)*

Approved by Consent

Agenda Item 5.2: Approve the Warrants Listing through June 30, 2004 (Warrants 009390 through 009515)

Approved by Consent

Agenda Item 5.3: Approve the Monthly Treasurer's Report for May 2004

Approved by Consent

Agenda Item 5.4: Approve the Monthly Treasurer's Report for June 2004

Approved by Consent

Agenda Item 5.5: Approve the amended Minutes of the June 19, 2002 regular City Council meeting and approve the Minutes of the June 2, 2004 Regular City Council Meeting and the June 16, 2004 Special and Regular City Council Meetings

Approved by Consent

Agenda Item 5.6: Adopting **Ordinance No. 15-2004**, an ordinance of the City Council of the City of Elk Grove amending the Elk Grove Zoning Map for the Laguna Ridge Specific Plan, Project No. EG-00-062 (**Second Reading**)

Approved by Consent

Agenda Item 5.7: Adopting **Ordinance No. 16-2004**, an ordinance of the City Council of the City of Elk Grove amending the Elk Grove Zoning Map from AR-5 to RD-5 for Heritage Estates, Project No. EG-03-551 (**Second Reading**)

Approved by Consent

Agenda Item 5.8: Adopting **Ordinance No. 17-2004**, an ordinance of the City Council of the City of Elk Grove amending the Elk Grove Zoning Map from AG-20 to RD-5 for Hoffman Meadows, Project No. EG-03-526 (**Second Reading**)

Approved by Consent

Agenda Item 5.9: Adopting **Ordinance No. 18-2004**, an ordinance of the City Council of the City of Elk Grove amending the Elk Grove Land Use Zoning Map from AR-20 to RD-5 affecting a portion of the subject property for a project known as East Meadows Unit No. 3, Project No. EG-03-511 (**Second Reading**)

Approved by Consent

Agenda Item 5.10: **Resolution 2004-151** approving an increase in the parking violation fines to reflect the increases recently approved by the County and City of Sacramento in compliance with California Vehicle Code section 40203.5

Approved concurrently with items 5.11, 5.14, 5.15

(Councilmembers Cooper and Leary recused)

Agenda Item 5.11: **Resolution 2004-152** approving an amendment to the Police Services Contract for the addition of five sworn personnel, upgrade a non-sworn officer,

purchase of related equipment, and authorize the purchase of additional law enforcement vehicles to the Police Department

**Approved concurrently with items 5.10, 5.14, 5.15
(Councilmembers Cooper and Leary recused)**

Agenda Item 5.12: *Resolution 2004-153 adopting the Mitigated Negative Declaration, adopt the Mitigation Monitoring and Reporting Program, and approve the Sheldon Road Widening Project*

Approved by Consent

Agenda Item 5.13: *Resolution 2004-154 authorizing the Mayor to execute the Elk Grove Roadway Fee Program Reimbursement Agreement with Lennar Renaissance, Inc. for roadway improvements along Elk Grove Boulevard (Agreement No. RC2004-08)*

Approved by Consent

Agenda Item 5.14: *Resolution 2004-155 authorizing the levying of a special tax in the East Franklin Community Facilities District (CFD) No. 2002-1 for Fiscal Year 2004-05*

**Approved concurrently with items 5.10, 5.11, 5.15
(Councilmembers Cooper and Leary recused)**

Agenda Item 5.15: *Resolution 2004-156 authorizing the levying of a special tax in the Community Facilities District (CFD) No. 2003-1 (Poppy Ridge) for Fiscal Year 2004-05*

**Approved concurrently with items 5.10, 5.11, 5.14
(Councilmembers Cooper and Leary recused)**

Agenda Item 5.16: *Resolution 2004-157 authorizing the levying of assessments for the Street Maintenance District No. 1 for Fiscal Year 2004-05*

Approved by Consent

Agenda Item 5.17: *Resolution 2004-158 receiving and ratifying the July 6, 2004 election results as certified by the City Clerk and levy the storm drainage fees on the properties commonly referred to as Schuler Ranch Units 1 and 2*

Approved by Consent

Agenda Item 5.18: *Resolution 2004-159 authorizing the Affordable Housing Fee Waivers for William Lyon Homes for the CSAA Master Plan Project*

Approved by Consent

Agenda Item 5.19: *Resolution 2004-160 approving the final map for Elk Grove Commons in connection with Donahue Schriber Realty Group, LP., a Delaware Limited Partnership*

Approved by Consent

Agenda Item 5.20: *Resolution 2004-161 approving the final map for Elk Grove Meadows Unit 3B and authorize the Mayor to execute a subdivision improvement*

agreement with Reynen & Bardis (Buscher), LP., a California Limited Partnership and Reynen & Bardis (GSG Partners) LP., a California Limited Partnership
Approved by Consent

Agenda Item 5.21: Resolution 2004-162 approving the City of Elk Grove Bicycle and Pedestrian Master Plan and authorize the submittal of the Plan to the Sacramento Area Council of Governments (SACOG) and the California Department of Transportation (Caltrans) for review and approval
Approved by Consent

Agenda Item 5.22: Resolution 2004-163 authorizing the City Manager or his designee to execute Real Estate related contracts and documents for the acquisition of right of way and relocation benefits associated with the Bond Road Widening Improvement Project
Approved by Consent

Agenda Item 5.23: Resolution 2004-164 authorizing the City Manager to execute a contract with Watkin & Bortolussi, Inc. for the Laguna Gateway Landscape Project at State Route 99 and the Laguna/Bond Road Interchange –
Approved by Consent

Agenda Item 5.24: Resolution 2004-165 authorizing the City Manager to execute a contract with Vanguard Construction for the 2004 Curb Ramp & Drainage Improvement Project
Approved by Consent

Agenda Item 5.25: Resolution 2004-166 authorizing the City Manager to execute a contract with the Chrisp Company for the street name sign and stop sign replacement project
Approved by Consent

Agenda Item 5.26: Resolution 2004-167 authorizing the City Engineer to call for bids for the Slurry Seal Project 2004
(Bid Date August 12, 2004)
Approved by Consent

Agenda Item 5.27: Resolution 2004-168 authorizing the City Engineer to call for bids for the Elk Grove Boulevard Rehabilitation Project
(Bid Date August 12, 2004)
Approved by Consent

Agenda Item 5.28: Resolution 2004-169 authorizing the City Engineer to call for bids for the Big Horn Boulevard/New Country Drive Traffic Signal System Project
(Bid Date August 26, 2004)
Approved by Consent

Agenda Item 5.29: *Resolution 2004-170 authorizing the City Manager to execute an amended contract with McGuire Management Consultancy to continue to provide technical support and staff augmentation services related to the City's transit operations not to exceed \$80,000*

Approved by Consent

Agenda Item 5.30: *Resolution 2004-171 authorizing the City Manager to execute a contract with Quincy Engineering for professional services for the West Stockton Boulevard Bridge replacement over Laguna Creek*

Approved by Consent

Agenda Item 5.31: *Authorizing the City Manager to execute a contract with the HLA Group, Landscape Architects & Planners to perform a Recreation and Park Feasibility Study in an amount not to exceed \$55,000 (Contract amount changed to \$60,500, noted at consent calendar presentation)*

Approved by Consent

Agenda Item 5.32: *Resolution 2004-173 adopting a Resolution declaring the City Council's Intention to Levy Storm Drainage Fees by annexing all remaining properties within the City limits that are not subject to a Storm Drainage Levy*

Schedules a Public Hearing for September 15, 2004

Approved by Consent

Agenda Item 5.33: *Resolution 2004-174 authorizing the Assistant City Manager to execute a work order with Psomas, Inc. for professional consultant services for the Lewis Stein road extension Project*

Approved by Consent

PUBLIC HEARINGS

Councilmember Cooper announced that he and Councilmember Leary were recusing themselves from participation on Public Hearing Agenda Items 6.1 and 6.2 due to a conflict resulting from their employment with the Sacramento County Sheriff's Department. Councilmembers Cooper and Leary vacated the Council Chambers during consideration of 6.1 and 6.2.

Agenda Item 6.1: *Public Hearing: Call an election and declare the results of the special election for annexation to the Community Facilities District (CFD) No. 2003-1 (Poppy Ridge) Annexation No. 1 to levy a special tax to pay for infrastructure and police services*

RECOMMENDATION: After the close of the public hearing, City staff recommends the following:

1. Adopt a resolution calling an election to submit the question of levying a special tax within the area proposed to be annexed into the Community Facilities District (CFD) No. 2003-1 (Poppy Ridge) to the qualified electors
2. Direct the City Clerk to tabulate the votes cast and certify the election results to the City Council
3. Adopt a resolution declaring the results of the special election for the Community Facilities District 2003-1 (Poppy Ridge) Annexation No. 1
4. 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 territory annexed into the Community Facilities District 2003-1 (Poppy Ridge) Annexation No. 1

Mayor Scherman declared the public hearing open at 7:30 p.m.

Kate Rosenlieb provided the staff report overview.

With no public requests to speak, **Mayor Scherman** closed the public comment opportunity at 7:32 p.m.

Motion 1: *M/S Briggs/Soares to adopt Resolution 2004-175 calling an election to submit the question of levying a special tax within the area proposed to be annexed into the Community Facilities District (CFD) No. 2003-1 (Poppy Ridge) to the qualified electors; and to direct the City Clerk to tabulate the ballots received and certify the election results to the City Council. The motion was passed by the following vote: Ayes: 3; Noes: 0; Recusals: 2 (Cooper, Leary)*

Note: *Council proceeded to consideration of Public Hearing Agenda Item No. 6.2 to allow for the tabulation of the ballots for Agenda Item No. 6.1.*

After returning from a brief recess (see Agenda Item No. 6.2), the City Clerk announced the election results as follows: Of a possible 18 votes, 18 votes were cast in favor of the levy of assessment.

Motion 2: *M/S Briggs/Soares to adopt Resolution 2004-176 declaring the results of the special election for the Community Facilities District 2003-1 (Poppy Ridge) Annexation No. 1. The motion was passed by the following vote: Ayes: 3; Noes:0; Recused: 2 (Cooper, Leary)*

Motion 3: *M/S Briggs/Soares to introduce and waive the full reading, by substitution of title only, Ordinance 19-2004, an ordinance of the City Council of the City of Elk Grove levying and apportioning the special tax in territory annexed into the Community Facilities District 2003-1 (Poppy Ridge) Annexation No. 1. The motion was passed by the following vote: Ayes: 3; Noes: 0; Recusals: 2 (Cooper, Leary)*

Agenda Item 6.2: *Public Hearing: Call an election and declare the results of the special election for annexation to the Community Facilities District (CFD) No. 2003-2 (Police Services) Annexation No. 2, and levy and apportion the special tax to pay for police services*

RECOMMENDATION: After the close of the public hearing, staff recommends the following:

1. Adopt a resolution calling an election to submit the question of levying a special tax within the area proposed to be annexed to Community Facilities District No. 2003-2 (Police Services), Annexation No. 2 to the qualified electors
2. Direct the City Clerk to tabulate the votes cast and certify the election results to the Council.
3. Adopt a resolution declaring the results of the special election for the Community Facilities District 2003-2 (Police Services) Annexation No. 2
4. 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 territory annexed into the Community Facilities District (CFD) 2003-2 (Police Services) Annexation No. 2

Mayor Scherman declared the public hearing open at 7:33 p.m.

Kate Rosenleib provided the staff report overview.

With no public requests to speak, **Mayor Scherman** closed the public comment opportunity at 7:35 p.m.

Motion 1: *M/S Briggs/Soares to adopt Resolution 2004-177 calling an election to submit the question of levying a special tax within the area proposed to be annexed to Community Facilities District No. 2003-2 (Police Services), Annexation No. 2 to the qualified electors; directing the City Clerk to tabulate the votes cast and certify the election results to the Council. The motion was passed by the following vote: Ayes: 3; Noes: 0; Recusals: 2 (Leary, Cooper)*

Council recessed at 7:36 p.m. to allow for the tabulation of the ballots. The Council meeting reconvened at 7:43 and returned to Public Hearing Agenda Item No. 6.1 to receive election results.

The Council returned to Public Hearing Agenda Item No. 6.2 at 7:46 p.m. and considered the following:

The City Clerk announced the election results as follows: Of a possible 8 votes, 8 votes were cast in favor of the levy of assessment.

Motion 3: *M/S Soares/Briggs to adopt Resolution 2004-178 declaring the results of the special election for the Community Facilities District 2003-2 (Police Services) Annexation No. 2. The motion was passed by the following vote: Ayes: 3; Noes: 0; Recusals: 2 (Cooper, Leary)*

Motion 4: *M/S Soares/Briggs to introduce and waive the full reading, by substitution of title only, Ordinance 20-2004 of the City Council of the City of Elk Grove levying and apportioning the special tax in territory annexed into the Community Facilities District (CFD) 2003-2 (Police Services) Annexation No. 2. The motion was passed by the following vote: Ayes: 3; Noes: 0; Recusals: 2 (Cooper, Leary)*

Agenda Item 6.3: *Public Hearing: Determining to levy assessments in the Street Maintenance District No. 1, Zone 1 Annexation No. 1 for certain properties in the East Franklin Area*

RECOMMENDATION: After the close of the Public Hearing, direct the City Clerk to tabulate the ballots; if the ballots submitted in opposition do not exceed the ballots submitted in favor of the assessment, adopt a resolution approving Supplement No. 1 to the Engineer's Report, and levy the assessments within Street Maintenance District No. 1, Zone 1 Annexation No. 1 for certain properties in the East Franklin Area

Mayor Scherman declared the public hearing open at 7:47 p.m.

Councilmembers Cooper and Leary returned to the Council Chambers at 7:48 p.m.

Kate Rosenlieb provided the staff report overview.

With no public requests to speak, **Mayor Scherman** closed the public comment opportunity at 7:48 p.m.

Motion 1: *M/S Briggs/Soares to direct the City Clerk to tabulate the ballots: The Motion was passed by the following vote: Ayes: 5; Noes: 0*

The City Clerk announced that all ballots cast were in affirmative (to assess the levy).

Motion: *M/S Briggs/Soares to adopt Resolution 2004-179 approving Supplement No. 1 to the Engineer's Report, and levy the assessments within Street Maintenance District No. 1, Zone 1 Annexation No. 1 for certain properties in the East Franklin Area. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 6.4: *Public Hearing: Determining to levy assessments in Street Maintenance District No. 1, Zone 2 Annexation No. 1 certain properties in the Laguna Area*

RECOMMENDATION: After the close of the Public Hearing, direct the City Clerk to tabulate the ballots; if the ballots submitted in opposition do not exceed the ballots submitted in favor of the assessment, adopt a resolution approving Supplement No. 1 to the Engineer's Report, and levy the assessments within Street Maintenance District No. 1, Zone 2 Annexation No. 1 for certain properties in the Laguna Area

Mayor Scherman declared the public hearing open at 7:50 p.m.

Kate Rosenlieb provided the staff report overview.

With no public requests to speak, **Mayor Scherman** closed the public comment opportunity at 7:51 p.m.

Motion: *M/S Briggs/Soares to direct the City Clerk to tabulate the ballots. The motion passed by the following vote: Ayes: 5; Noes: 0*

The City Clerk announced that the ballot cast was in the affirmative (to assess the levy).

Motion: *M/S Briggs/Soares to adopt Resolution 2004-180 approving Supplement No. 1 to the Engineer's Report, and levy the assessments within Street Maintenance District No. 1, Zone 2 Annexation No. 1 for certain properties in the Laguna Area. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 6.5: *Public Hearing: Determining to levy assessments in Street Maintenance District No. 1, Zone 3 Annexation No. 1 in the Eastern Area*

RECOMMENDATION: After the close of the Public Hearing, direct the City Clerk to tabulate the ballots; if the ballots submitted in opposition do not exceed the ballots submitted in favor of the assessment, adopt a resolution approving Supplement No. 1 to the Engineer's Report, and levy the assessments within Street Maintenance District No. 1, Zone 3 Annexation No. 1 for certain properties in the Eastern Area

Mayor Scherman declared the public hearing open at 7:52 p.m.

Kate Rosenlieb provided the staff report overview.

With no public requests to speak, **Mayor Scherman** closed the public comment opportunity at 7:53 p.m.

Motion 1: *M/S Briggs/Soares to direct the City Clerk to tabulate the ballots. The motion passed by the following vote: Ayes: 5; Noes: 0*

The City Clerk announced that all ballots cast were in affirmative (to assess the levy).

Motion: *M/S Briggs/Soares to adopt Resolution 2004-181 approving Supplement No. 1 to the Engineer's Report, and levy the assessments within Street Maintenance District No. 1, Zone 3 Annexation No. 1 for certain properties in the Eastern Area. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 6.6: *Public Hearing: Newton Ranch Unit 3, Project No. EG-03-497: to consider a Rezone of an existing 1.95-acre (gross) parcel from AR-10 (Agricultural-Residential, 10-acre minimum) to RD-5 (Residential, 5 dwelling units per acre) and O (Open Space); Tentative Subdivision Map creating 6 residential (RD-5) parcels, a landscape parcel (Lot A), and an Open Space parcel (Lot B); exception to standards involving an off-set elbow, an off-set cul-de-sac bulb, and reduced lot depth on Lot 4; and Design Review for Residential Subdivision Map*

Location: *9800 Waterman Road*

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

1. Adopt the Mitigated Negative Declaration prepared for Newton Ranch Unit 3, Project No. EG-03-497
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 Elk Grove Land Use Zoning Map from AR-10 to RD-5 and Open Space affecting a property for the project known as Newton Ranch Unit 3, Project No. EG-03-497
3. Adopt a resolution approving a Tentative Subdivision Map, Exception to Standards and Design Review for Newton Ranch Unit 3, Project No. EG-03-497, subject to the Findings and MMRP/Conditions of Approval

Mayor Scherman declared the public hearing open at 7:54 p.m.

Mel Pabalinas provided the staff report overview.

Mayor Scherman invited the applicant to make a presentation.

Kent Baker, of Baker-Williams Engineering and representing the applicant, agreed to the conditions of the approval with the exception of COA 45 restricting the lot to construction of a single-story house on lot 4.

Mayor Scherman opened the public comment opportunity.

The following persons offered public comment: **Robert Hancey** and **Pamela Kirk** (adjacent property owners to lot 4 and opposed to two-story house construction).

Mayor Scherman closed the public comment opportunity.

Motion 1: *M/S Leary/Cooper to adopt the Mitigated Negative Declaration prepared for Newton Ranch Unit 3, Project No. EG-03-497. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Motion 2: *M/S Leary/Cooper to introduce and waive the full reading, by substitution of title only, Ordinance 21-2004 of the City Council of the City of Elk Grove amending the Elk Grove Land Use Zoning Map from AR-10 to RD-5 and Open Space affecting a property for the project known as Newton Ranch Unit 3, Project No. EG-03-497. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Motion 3: *M/S Leary/Cooper to adopt Resolution 2004-182 approving a Tentative Subdivision Map, Exception to Standards and Design Review for Newton Ranch Unit 3, Project No. EG-03-497, subject to the Findings and MMRP/Conditions of Approval. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Note: *The Conditions of Approval were adopted as recommended by the Planning Commission, without modification.*

Agenda Item 6.7: *Public Hearing: Bell South Tentative Subdivision Map Amendment, Project No. EG-04-660: to consider Morrison Homes' request for a reprieve from the timing of implementation of Condition of Approval #107, which requires installation of trail improvements within the Laguna Creek channel prior to occupancy of the residential portion of the an approval of Bell South Project*

Location: *Southwestern corner of Bond Road and Elk Grove-Florin*

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

1. Adopt a resolution approving a Tentative Subdivision Map Amendment for Bell South, Project No. EG-04-660, as it relates to the timing of implementation of Condition of Approval Number 107 and subject to the findings as detailed
2. Initiate a project to review compliance with MMRP/Conditions of Approval for the commercial portion of the Bell South project

Mayor Scherman declared the public hearing open at 8:08 p.m.

Jessica Shalamunec provided the staff report overview, including information on project violations relative to Laguna Creek and subsequent stop-work ordered issued on May 17 and a notice of violation on May 26. The Regional Water Quality Control Board, (RWQCB), State Department of Fish and Game, and Corp of Engineers are reviewing the violations and considering cleanup plans and/or permits.

Mayor Scherman invited the applicant to make a presentation.

Jon Tattersall, applicant (Morrison Homes), noted that the violations to Laguna Creek were not caused by or within the control of Morrison Homes, and requested Council approval to allow a reprieve from Condition of Approval 107 to allow occupancy of 40 homes.

Mayor Scherman opened the public comment opportunity.

Cleon Pantell, representing the commercial holdings developer (Walgreens, Auto Zone), addressed the Planning Commission's recommendation to initiate a review of the commercial aspect of the project for compliance with the conditions of approval. He noted he is not opposed to a review but is concerned that additional or new conditions may be applied to the commercial portion of the project.

Jim Purcell (Sierra Holdings), noted that the incident resulted from actions taken by an unauthorized subcontractor without the knowledge of the project contractor. A cleanup action plan has been prepared for review and approval by the proper authorities.

Osha Meserve, Remy, Thomas, Moose and Manley, legal counsel representing Sierra Holdings and Bell South, LLC, stated that her clients support Morrison Homes' efforts to provide commitments to residents; however, Bell South has not applied to the City to amend the parcel map and it is not within the City's jurisdiction to make changes to the commercial portion of the tentative parcel map. She asked that the resolution be amended to pertain only to the Morrison Homes' portion of the tentative map.

The following persons spoke in opposition to the applicant's request: **Terryl Wheat, Lynn Wheat, Lisa Dixon.**

The following persons spoke in support of the applicant's request: **Christopher Wilson, Colleen Stoner, Edna G. Pita, Kevin Spitzer, David Gotham.**

Mr. Tattersall, addressed the construction status, noting that of the 40, 27 have been sheetrocked or are beyond that stage; 3 homes are complete (model homes); 10 are slab only.

Mayor Scherman closed the public comment opportunity at 8:48 p.m.

Bob Lee, City Engineer, noted that the requirement for installation of flashing beacons was to upgrade the safety of pedestrians.

Motion 1: M/S Leary/Cooper to adopt Resolution 2004-183 approving a Tentative Subdivision Map Amendment for Bell South, Project No. EG-04-660, to allow for the occupation of 27 units currently under construction, as it relates to the timing of implementation of Condition of Approval Number 107, and including staff's recommendation to impose an additional Condition of Approval that prior to issuance of

the first building permit for the remaining 56 units within the residential portion of the Bell South project, the developer shall install flashing beacons for each approach to the pedestrian signals on Bond Road and Elk Grove-Florin Road, subject to the findings as detailed. **The motion was passed by the following vote: Ayes: 5; Noes: 0.**

Motion 2: M/S **Leary/Cooper** to initiate a project to review compliance with MMRP/Conditions of Approval for the commercial portion of the Bell South project. **The motion was passed by the following vote: Ayes: 5; Noes: 0**

Agenda Item 6.8: Public Hearing to consider an amendment to Chapter 16.130 of the Elk Grove Municipal Code that relates to Swainson's Hawk Mitigation Fees

RECOMMENDATION: Adopt an urgency ordinance and introduce and waive the full reading, by substitution of title only, an ordinance of the City Council of the City of Elk Grove amending Chapter 16.130 of the Elk Grove Municipal Code relating to Swainson's Hawk Impact Mitigation

Mayor Scherman declared the public hearing open at 9:07 p.m.

Taro Echiburu, provided the staff report overview noting that this ordinance would implement a land for land mitigation mechanism.

Mayor Scherman opened the public comment opportunity at 9:07 p.m.

The following persons were supportive of the proposed ordinance: **Ardie Zahedani, Lisa Dixon.**

Hank Van Exel (Hogue Dairy) and **Sharon Lynes** (addressing Emerald Estates Project) requested exemption provisions for in-process and very small projects.

Shirley Peters questioned whether this ordinance would encourage developers to request higher-density projects and discourage AR-2 development.

Council reviewed a list of in-progress projects and agreed criteria for exemptions should be developed.

Mayor Scherman closed the public comment opportunity at 9:23 p.m.

Motion: M/S **Leary/Briggs** directing staff to prepare and return a list of projects for Council's consideration for exemption; and to adopt an urgency ordinance and introduce and waive the full reading, by substitution of title only, **Ordinance 22-2004** of the City Council of the City of Elk Grove amending Chapter 16.130 of the Elk Grove Municipal Code relating to Swainson's Hawk Impact Mitigation. **The motion was passed by the following vote: Ayes: 5; Noes: 0**

REGULAR ACTION ITEMS/RECOMMENDATIONS

Agenda Item 7.1: *Approve the 2009-2039 Sacramento County Transportation Sales Tax Expenditure Plan and Initial Study*

RECOMMENDATION: Adopt a resolution approving the 2009-2039 Sacramento County Transportation Expenditure Plan and Initial Study

Bob Lee, provided the staff report overview.

Mayor Scherman opened the public comment opportunity.

The following persons spoke in support of the recommendation: **Steve Sperry**, President of the Elk Grove Chamber of Commerce, **Darin Gale**, Sacramento Metropolitan Chamber of Commerce.

Motion: *M/S Cooper/Leary to adopt Resolution 2004-184 approving the 2009-2039 Sacramento County Transportation Expenditure Plan and Initial Study, and register the Council's support for the technical modification to the proposed developer fee that has been recommended by the City's Finance staff. The motion was passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 7.2: *Approve the final map and subdivision improvement agreement for Stoecker Ranch*

RECOMMENDATION: Adopt a resolution approving the final map for Stoecker Ranch and authorize the Mayor to execute the subdivision improvement agreement with Pleasant Valley Investments, LC, a Nevada Limited Liability Company

Bob Lee, provided the staff report overview.

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

Motion: *M/S Cooper/Briggs to adopt Resolution 2004-185 approving the final map for Stoecker Ranch and authorize the Mayor to execute the subdivision improvement agreement with Pleasant Valley Investments, LC, a Nevada Limited Liability Company. The motion passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 7.3: *Reducing the speed limit on Grant Line Road between Sheldon Woods Way and Menlo Oaks Court from 45 MPH to 35 MPH*

RECOMMENDATION: Introduce and waive the full reading, by substitution of title only, an ordinance of the City Council of the City of Elk Grove establishing the speed limit on Grant Line Road between Sheldon Woods Way and Menlo Oaks Court to 35 MPH

Bob Lee, provided the staff report overview.

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

Motion: *M/S Leary/Briggs to introduce and waive the full reading, by substitution of title only, Ordinance 23-2004 of the City Council of the City of Elk Grove establishing the speed limit on Grant Line Road between Sheldon Woods Way and Menlo Oaks Court to 35 MPH. The motion passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 7.4: *Reducing the speed limit on West Stockton Boulevard between Auto Center Drive and Poppy Ridge Road from 55 MPH to 35 MPH*

RECOMMENDATION: Introduce and waive the full reading, by substitution of title only, an ordinance of the City Council of the City of Elk Grove establishing the speed limit on West Stockton Boulevard between Auto Center Drive and Poppy Ridge Road to 35 MPH

Bob Lee, provided the staff report overview.

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

Motion: *M/S Leary/Briggs to introduce and waive the full reading, by substitution of title only, Ordinance 24-2004 of the City Council of the City of Elk establishing the speed limit on West Stockton Boulevard between Auto Center Drive and Poppy Ridge Road to 35 MPH. The motion passed by the following vote: Ayes: 5; Noes: 0*

Agenda Item 7.5: *Approve the additional financial commitment to St. Anton Partners, LLC for the Geneva Pointe Apartments Supplemental Affordable Housing Fund Assistance*

RECOMMENDATION: Adopt by resolution the additional financial commitment to St. Anton Partners, LLC for the Geneva Pointe Apartments Supplemental Affordable Housing Fund Assistance

Beth Thompson, provided an overview of St. Anton's request.

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

Motion: M/S **Leary/Briggs** to adopt **Resolution 2004-186** the additional financial commitment to St. Anton Partners, LLC for the Geneva Pointe Apartments Supplemental Affordable Housing Fund Assistance. **The motion passed by the following vote: Ayes: 5; Noes: 0**

GENERAL ADMINISTRATION INFORMATION

None.

COUNCIL COMMENTS/FUTURE AGENDA ITEMS

Mayor Pro Tem Soares

? Requested information on the Waste Management transition status.

City Manager John Danielson, read a notice issued to residences affected by Waste Management's delay in the pickup of old carts. He also noted that staff is going door to door to make sure residents are being noticed.

? Requested an item on Big Rig Parking.

Councilmember Briggs

? How can truck drivers/trucks be accommodated?

? Status report on Walgreens, Longs (Old Town) oversized advertising board.

? Announced the beginning of the 16th annual Strauss Festival. The Rotary Club will be selling refreshments.

Mayor Scherman

? Passed on a compliment by an applicant that the stream-lined permitting process.

CLOSED SESSION

City Attorney Manzanetti announced that no reports would be provided on the scheduled closed session items and the City Council did not adjourn to closed session.

A) CONFERENCE WITH LEGAL COUNSEL – Existing Litigation

(2 Cases)

Pursuant to Government Code 54956.9

1. Gyan Kalwani, et al v. City of Elk Grove, et al., Superior Court of California Sacramento County, Case No. 04CS00177
2. 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)

ADJOURNMENT

With no other business for the Council to consider, the City Council meeting was adjourned at 10:00 p.m.

PEGGY JACKSON, CITY CLERK

ATTEST:

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