

**MINUTES OF THE CITY COUNCIL
REGULAR MEETING
Wednesday, December 13, 2006**

CALL TO ORDER/ROLL CALL

Mayor Pro Tem Scherman called the regular City Council meeting of December 13, 2006 to order at 6:35 p.m.

Present: Mayor Pro Tem Scherman, Council Members Cooper, Leary

Absent: Mayor Soares, Council Member Briggs

The Elk Grove Police Department posted the colors and led the Pledge of Allegiance.

Mayor Pro Tem Scherman requested the meeting be adjourned in the memory of Claudine Jackson, wife of John Jackson, Sr.

SPECIAL ACTION ITEM

Reorganization of the Elk Grove City Council; Certification of November 7, 2006 General Municipal Election Results:

City Clerk Peggy Jackson presented the item for Council action.

The results of the election are entered into the minutes as follows:

<u>Council District 2:</u>	Votes Cast
Patrick Hume	13,090
Rick Soares	10,946
Elease Walton	4,441
Davies Ononiwu	4,056

Council District 4:

Gary Davis	16,924
Daniel Briggs	9,735
Daniel Silva	5,617

Candidates elected at the November 7, 2006 General Municipal Election were Patrick Hume from District 2 and Gary Davis from District 4.

Motion 1: M/S Leary/Cooper to adopt Resolution No. 2006-288 certifying the election results of the November 7, 2006 General Municipal Election. The motion passed by the following vote: Ayes: 3; Noes: 0; Absent: 2 (Briggs, Soares)

The City Clerk administered the Oath of Office to City Council Members Elect Gary Davis and Patrick Hume, and presented Certificates of Election.

Council Member Hume requested the Council consider deferring the vote [for Mayor, Mayor Pro Tem] pending a presentation on holding a special election in June 2007 on the following: 1) Directly Elected Mayor; 2) Term of Mayor [2 or 4 years]; 3) Council Member eligibility for Mayor. He added that with the June election, the mayoral term would last only until the November 2008 election.

Mayor Pro Tem Scherman called for public comment.

In response to **Harold Ayers'** request for clarification on Council Member Hume's proposal, Council Member Hume responded that his proposal would be to have an elected Mayor (regular Council person with no additional powers).

The following persons spoke in support of Council Member Hume's proposal: **Phillip Stark, Constance Conley, Linda Beattie.**

Braulio Torres welcomed the new Council Members.

There was Council consensus to consider the direct election of the Mayor.

Davies Ononiwu congratulated the new Council Members and pledged his continued leadership to the Elk Grove community. Mr. Ononiwu characterized the benefits package approved for the City Manager and City Attorney at the November 8, 2006 Council meeting as unacceptable. He pledged his continued leadership to the Elk Grove community.

Council Member Davis supported Council Member Hume's proposal in concept and felt additional items should be addressed: election of Council Members by majority vote; district vs, city-wide election. He recommended a series of public workshops and meetings. He felt it necessary to fill the position of Mayor tonight and to work toward a ballot initiative driven by the public.

Council Member Leary spoke in support of changing the Mayoral selection process and expressed concern over special election costs. He suggested the proposal be considered at a general municipal election.

In response to Mayor Pro Tem Scherman's request for clarification on election costs, the City Clerk responded that the election costs projected by the Registrar's Office in December 2004 was in the range of \$270,000 with additional costs should the election require signature verification resulting from a petition process.

By Council consensus and at City Manager Danielson's recommendation, staff was directed to return information to the Council in 30 days for further discussion and direction.

Following Council discussion, Council Member Hume clarified that he wished to consider one issue at a time, primarily that of a directly elected mayor.

The Elk Grove City Council reorganized as follows:

Motion: M/S Davis/Cooper to appoint Council Member Leary as Mayor. The motion was withdrawn by Council member Davis following recess.

Substitute Motion: M/S Scherman/Hume to appoint Council Member Cooper as Mayor. Council Member Cooper declined the nomination. The substitute motion died.

Substitution Motion: Moved by Council Member Hume, that Mayor Pro Tem Scherman be Mayor. The motion died for lack of a second.

The Mayor Pro Tem called a recess at 7:08 p.m. The meeting reconvened at 7:14 p.m.

Motion amended: M/S Davis/Scherman amended motion to appoint Council Member Cooper as Mayor during the 2007 calendar year. The motion passed by the following vote: Ayes: 4; Noes: 0; Abstained: Hume

Motion: M/S Hume/Cooper to appoint Council Member Leary as Mayor Pro Tempore during the 2007 calendar year. The motion passed by the following vote: Ayes: 4; Noes: 1 (Scherman)

ITEM 1B. RECEPTION. Council recessed at 7:18 p.m. for a reception to welcome Council Member Davis and Council Member Hume. The regular City Council regular meeting reconvened at 7:45 p.m. with all Council Members present.

APPROVAL OF AGENDA

Motion: M/S Cooper/Leary to approve the December 13, 2006 agenda. The motion passed by the following vote: Ayes: 5; Noes: 0

PRESENTATIONS/ANNOUNCEMENTS

Mayor Pro Tem Scherman recognized Gene and Betty Robinson for their gift of persimmon cookies.

PUBLIC COMMENT

Olga Batey, representing Friends of the Library, thanked the City Council for purchasing the building for the branch library. She encouraged Council Members to join the Friends of the Library.

Leo Fassler thanked the Elk Grove Police Department and attributed the decrease in speeders in the east Elk Grove rural area to increased police traffic enforcement.

Janet Toppenberg, CEO of the Elk Grove Chamber of Commerce, congratulated Council Members Davis and Hume on their election and offered assistance in providing input on economic development matters.

CONSENT CALENDAR ITEMS

Council Members Cooper and Davis requested Agenda Item No. 5.12 be pulled from the Consent Calendar for discussion.

Council Member Hume read a statement into the record abstaining from participation on Agenda Item No. 5.27:

"I am looking into whether or not I would have a financial interest that would preclude me from voting upon consideration of item 5.27 and so until I have [a] direct opinion from the FPPC and or from my political attorney, I . . . will not be participating in consent item no. 5.27 and the record should reflect my recusal from that item, my abstention from that participation and in addition to my recusal today, I have not made, participated in making or otherwise influenced or attempted to influence this decision".

Council Member Davis proposed pulling and moving Consent Calendar Item No. 5.12 to a January agenda to allow a public workshop on the issue.

Council Member Leary requested Consent Calendar Item 5.30 be pulled for clarification. Council Member Leary questioned the addition of the position "Police Dispatch and Records Manager".

The City Clerk noted that the position "Police Dispatch and Records Manager" is reported as one position; if that is not the case the title should be corrected.

Motion: M/S Leary/Cooper to approve the consent calendar items, removing Agenda Item No. 5.12 for discussion, acknowledging Council Member Hume's abstention on Agenda Item No. 5.27. The motion passed by the following vote: Ayes: 5; Noes: 0

See Consent Calendar Item No. 5.12 for discussion prior to vote.

Public comment was taken on Agenda Item No. 5.30 and 5.34 after Council vote to approve the consent calendar and Agenda Item No. 5.12.

Tom Shine questioned why the City Manager position was not included as a designated filing position under the Conflict of Interest Code. **Sharon Lynes** opposed Council approval of Consent Calendar Item No. 5.34.

City Clerk Peggy Jackson clarified that the City Manager, City Attorney, City Council and Planning Commissioners report interests as required by the Political Reform Act.

Council affirmed its approval of Consent Calendar Item Nos. 5.30 and 5.34.

Agenda Item No. 5.1: Approve General Warrant No. 24472 through 25423 dated October 7, 2006 through November 29, 2006 and Electronic Fund Transfer 2007033 and 2007035 through 2007051

Approved by Consent

Agenda Item No. 5.2: Receive the September 2006 Treasurer's Report

Approved by Consent

Agenda Item No. 5.3: Set public hearing for January 10, 2007 to consider adoption of amended Short Range Transit Plan

Approved by Consent

Agenda Item No. 5.4: Ordinance No. 46-2006 was adopted repealing Elk Grove Municipal Code Article 9, Chapter 16.20 relating to the Housing Stock Conservation Fee Requirement (**Second Reading**)

Approved by Consent

Agenda Item No. 5.5: Resolution No. 2006-289 adopted authorizing the City Manager, or his designee, to negotiate and execute a contract with Keenan & Associates for brokerage consulting services for an amount not to exceed \$25,000

Approved by Consent

Agenda Item No. 5.6: Resolution No. 2006-290 was adopted authorizing the City Manager, or his designee, to enter into a Memorandum of Understanding with the City of Sacramento regarding Reverse 911 Emergency Telephone Notification System

Approved by Consent

Agenda Item No. 5.7: Resolution No. 2006-291 was adopted authorizing the City Manager, or his designee, to enter into a Memorandum of Understanding

designating the City of the Sacramento as an alternate answering point for 911 calls during emergency situations

Approved by Consent

Agenda Item No. 5.8: **Resolution No. 2006-292** was adopted designating the Sacramento County Environmental Management Department as the local enforcement agency for City of Elk Grove solid waste activities

Approved by Consent

Agenda Item No. 5.9: **Resolution No. 2006-293** was adopted accepting the Council Chambers audiovisual upgrade project as complete and authorizing the filing of a Notice of Completion

Approved by Consent

Agenda Item No. 5.10: **Resolution No. 2006-294** was adopted authorizing the City Manager, or his designee, to exercise the sale of surplus City property in the form of 14 police patrol vehicles and 2 motorcycles and deposit proceeds into the Police Department's General Fund

Approved by Consent

Agenda Item No. 5.11: **Resolution No. 2006-295** was adopted approving Expense Reimbursement Policy for members of the City Council, Planning Commission, and other advisory bodies

Approved by Consent

Agenda Item No. 5.12: **Resolution No. 2006-296** was adopted authorizing the Mayor, or designee, to execute a Joint Exercise of Powers Agreement to establish a Joint Powers Authority for the Elk Grove - Rancho Cordova - El Dorado Connector

The following persons provided public comment for Council consideration: **Mike Barnbaum, Tom Shine, June Coats, Sharon Lynes, Shirley Peters**. Generally, information provided suggested additional public input to clarify agreement provisions, including bypass routing, prior to adoption by the Council.

At the request of **Council Member Cooper**, Diane Nguyen, Capital Projects Manager provided an overview of the staff report recommendation (PowerPoint presentation filed). Ms. Nguyen made the following points: 1) The map included with the staff report was provided to generally identify the area; 2) No general alignment or fixed corridor for the connector road has been established by the City Council; 3) This staff report does not make a recommendation on the alignment for Council consideration.

Ms. Nguyen explained the purpose of the Joint Powers Authority (JPA) is to initiate the environmental document which will be utilized to review alignments. The JPA will be comprised of five agencies: cities of Elk Grove, Folsom, Rancho Cordova

and counties of El Dorado and Sacramento. Ms. Nguyen reported that the other JPA members have authorized participation in the agreement as presented.

The action recommended by staff is consistent with direction given by the City Council resolution adopted on October 12, 2005 to take all steps necessary to implement a joint powers authority to expedite the construction of the Elk Grove-Rancho-Cordova-El Dorado connector.

Ms. Nguyen stated that the agreement enables member agencies to have an equal vote on the JPA Board actions. The agreement provides that the general alignment will be determined by the City Council. The general alignment is described as within 1,000 feet of the actual alignment. The JPA can not pursue an alignment of the connector road within the City of Elk Grove unless it is pursuant to the Elk Grove City Council. The JPA Board can not proceed beyond preparation of the environmental document unless it is approved by the Elk Grove City Council.

Each JPA member reserves the right to proceed with transportation projects that may be a part of the connector project so long as improvements are consistent with the functional guidelines developed for the connector road. The JPA is empowered to seek Measure A funding and fosters collaborative regional planning.

In response to Council Member Hume's question on JPA Board actions, **City Attorney Manzanetti**, identified nine specific areas addressed in the agreement requiring unanimity.

Council Member Davis supported delaying a vote on the item until January 10 to allow for additional public input.

Motion: M/S Davis/Hume (for discussion) to approve participation in the JPA, striking the reference to the 1,000 ft. provision. The motion failed by the following vote: Ayes: 2 (Davis, Hume); Noes: 3 (Scherman, Cooper, Leary)

Motion: M/S Cooper/ to continue Consent Calendar Item No. 5.12 until the first meeting in January. The motion died for lack of a second.

Motion: M/S Leary/Hume to authorize the Mayor, or designee, to execute a Joint Exercise of Powers Agreement to establish a Joint Powers Authority for the Elk Grove - Rancho Cordova - El Dorado Connector. The motion passed by the following vote: Ayes: 4; Noes: 1 (Davis)

**Agenda Item No. 5.13: Resolution No. 2006-297 was adopted authorizing the City Engineer to call for bids for the Sign Replacement Project 2007
Approved by Consent**

Agenda Item No. 5.14: Resolution No. 2006-298 was adopted approving the Summary Abandonment of a portion of a Drainage Easement over the Laguna Springs Corporate Center Phase 2 (EG-05-811-AB-00)
Approved by Consent

Agenda Item No. 5.15: Resolution No. 2006-299 was adopted accepting subdivision improvements for Chezimme Estates (EG-01-177-SF)
Approved by Consent

Agenda Item No. 5.16: Resolution No. 2006-300 was adopted authorizing the City Engineer, or his designee, to execute Intercity Rail Passenger Facility Contracts with the State of California Department of Transportation and amending the 2006-07 City Budget by \$150,000 for the Elk Grove Train Stop Project
Approved by Consent

Agenda Item No. 5.17: Resolution No. 2006-301 was adopted approving The Grove at Laguna Ridge Village 2A Final Map (Subdivision No. 04-764.02A) and authorizing the Mayor to execute the Subdivision Improvement Agreement
Approved by Consent

Agenda Item No. 5.18: Resolution No. 2006-302 was adopted approving The Grove at Laguna Ridge Village 2B Final Map (Subdivision No. 04-764.02B) and authorizing the Mayor to execute the Subdivision Improvement Agreement
Approved by Consent

Agenda Item No. 5.19: Resolution No. 2006-303 was adopted approving The Grove at Laguna Ridge Village 5 Final Map (Subdivision No. 04-764.05) and authorizing the Mayor to execute the Subdivision Improvement Agreement
Approved by Consent

Agenda Item No. 5.20: Resolution No. 2006-304 was adopted approving The Grove at Laguna Ridge Village 6 Final Map (Subdivision No. 04-764.06) and authorizing the Mayor to execute the Subdivision Improvement Agreement
Approved by Consent

Agenda Item No. 5.21: Resolution No. 2006-305 was adopted approving The Grove at Laguna Ridge Village 7 Final Map (Subdivision No. 04-764.07) and authorizing the Mayor to execute the Subdivision Improvement Agreement
Approved by Consent

Agenda Item No. 5.22: Resolution No. 2006-306 was adopted approving The Grove at Laguna Ridge Village 8 Final Map (Subdivision No. 04-764.08) and authorizing the Mayor to execute the Subdivision Improvement Agreement
Approved by Consent

Agenda Item No. 5.23: Resolution No. 2006-307 was adopted approving The Grove at Laguna Ridge Village 9 Final Map (Subdivision No. 04-764.09) and authorizing the Mayor to execute the Subdivision Improvement Agreement
Approved by Consent

Agenda Item No. 5.24: Resolution No. 2006-308 was adopted approving The Grove at Laguna Ridge Village 10 Final Map (Subdivision No. 04-764.10) and authorizing the Mayor to execute the Subdivision Improvement Agreement
Approved by Consent

Agenda Item No. 5.25: Resolution No. 2006-309 was adopted approving the Laguna Oaks Shopping Center Parcel Map (Parcel Map No. 05-906.00)
Approved by Consent

Agenda Item No. 5.26: Resolution No. 2006-310 was adopted approving the Elk Grove Racquet Club Parcel Map (Parcel Map No. 05-905.00)
Approved by Consent

Agenda Item No. 5.27: Resolution No. 2006-311 was adopted authorizing the City Manager, or his designee, to execute a consultant services contract amendment to Contract Number C-05-277 with Quincy Engineering, Inc. to extend the termination date of consultant services to June 30, 2008 for the Elk Grove Boulevard at State Route 99 Interchange Modification Project
Approved by Consent by the following vote: Ayes: 4; Noes: 0; Abstentions: 1 (Hume)

Agenda Item No. 5.28: Resolution No. 2006-312 was adopted authorizing the City Manager, or his designee, to execute first amendments to agricultural leases with Delta Breeze Partners, LLC for the vineyard property identified as Sacramento County APN 146-0040-039 (412 Acres) and APN 146-0040-040 (331 Acres)
Approved by Consent

Agenda Item No. 5.29: Resolution No. 2006-313 was adopted authorizing the City Manager, or his designee, to execute a Settlement Agreement and Mutual Release to acquire, exchange, and dispose of properties related to the Grant Line Road/State Route 99 Interchange Reconstruction Project
Approved by Consent

Agenda Item No. 5.30: Resolution No. 2006-314 was adopted amending the City of Elk Grove Conflict of Interest Code
Approved by Consent

Agenda Item No. 5.31: Resolution No. 2006-315 was adopted authorizing the City Manager, or his designee, to execute the Sacramento Transportation Authority's New Measure "A" Capital Allocation and Expenditure Contracts for the

Grant Line Road/State Route 99 Interchange and the Sheldon Road/State Route 99 Interchange Projects and approving a 2006-07 budget amendment reflecting new Measure "A" funding for each interchange project

Approved by Consent

Agenda Item No. 5.32: Resolutions No. 2006-316 and 2006-317 were adopted authorizing the City Engineer, or his designee, to execute agreements for the Sacramento Area Council of Governments and CalTrans grants secured by the City of Elk Grove and amending the City's 2006-07 budget for the specified grants

Approved by Consent

Agenda Item No. 5.33: Resolution No. 2006-318 was adopted authorizing the City Manager, or his designee, to execute a contract amendment in the amount of \$700,000 with Quincy Engineering, Inc. for design and construction support of the Sheldon Road/State Route 99 Interchange Reconstruction Project

Approved by Consent

Agenda Item No. 5.34: Consent was granted for waiver to permit Kronick, Moskovitz, Tiedemann & Girard to continue to represent the City in the Eminent Domain matter pertaining to the Sheldon Road/Route 99 Interchange Project

Approved by Consent

PUBLIC HEARINGS

Agenda Item No. 6.1: A public hearing to consider adoption of resolutions declaring the necessity and authorizing the commencement of eminent domain proceedings to secure real property interests necessary to construct the Sheldon Road/State Route 99 Interchange Reconstruction Project

RECOMMENDATION:

Adopt 11 Resolutions of Necessity: **A)** Authorizing the acquisition by eminent domain of the property interests (listed below) for the Sheldon Road/State Route 99 Interchange Reconstruction Project

1. Kochoo / APN: 115-0162-012
2. Wood/Demandante-Janiga / APN: 115-0162-010
3. Tsakopoulos, et al / APN: 115-0162-013, 014, 015 & 016; 115-0150-057; 115-1850-076
4. Pino, et al / APN: 115-0150-010
5. C. David & Kathleen D. Routt Revocable Trust / APN: 116-0030-005
6. Elk Grove Church of Christ, Inc. / APN: 116-0030-003
7. Family Real Property, Limited Partnership / APN: 116-0030-052 & 053
8. JBM Investments, General Partnership / APN: 116-0030-020 & 021
9. Elk Grove Community Services District / APN: 115-0185-075, 115-0150-056, 116-1310-017, 116-0030-054, 116-1440-049

10. AKT Development/Kramer Ranch Partnership / APN: 116-1440-051

11. Sheldon Terrace, LLC / APN: 116-0021-036

B) Making the following findings:

1. The public interest and necessity require the project;
2. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
3. The property interests are necessary for the proposed project; and
4. The offer required by Government Code section 7267.2 has been made to the owner(s) of record of the property interests to be acquired.

C) Authorizing the City Attorney to file suit in eminent domain to acquire such property interests, to apply for orders for possession before judgment, and to prosecute the actions to final judgment, and D) Authorizing the deposit of funds in court from the funds lawfully available.

Mayor Pro Tem Scherman declared the public hearing open at 8:56 p.m.

Diane Nguyen, Capital Projects Manager, and Julie Cline, Real Property Manager, provided an overview of the staff report and recommendation (PowerPoint presentations filed).

Ms. Cline identified and read the findings into the record. Ms. Cline also identified property owners with whom agreement has been reached since the distribution of the Council agenda item: Pino, Tsakopoulos, Elk Grove Church of Christ. Tentative agreement has been reached with the Elk Grove Community Services District (Cosumnes CSD).

Ms. Cline reviewed the eminent domain process and measures taken to date.

PUBLIC COMMENT:

Property owners impacted by the eminent domain process were provided the opportunity for comment without time restriction.

The following persons provided public comment for Council consideration: **Constance Conley** (non-property owner), **David Routt** (property owner), **Kathy Routt** (property owner), **Steve Belzer** (legal counsel representing property owner Routt), **Jack Molodunof** (legal counsel representing AKT Development).

Ms. Cline reported on the negotiation effort with the Routt property.

There was discussion on the use and possible conflict with the use of Bender Rosenthal in the multiple roles of City's appraiser, acquisition agent and relocation consultant.

Ms. Cline noted that appraisals are reviewed by a secondary independent appraiser.

Mayor Pro Tem Scherman closed the public comment opportunity and declared the public hearing closed at 9:50 p.m.

City Engineer Bob Lee explained the redesign of the interchange to improve functionality and its impact to the Tsakopoulos property.

Council Member Hume suggested that the Route remnant property be developed as a memorial grove to Tyler Routt.

There was Council discussion on access to the Sheldon Terrace project.

Ms. Cline reported the City is open to engaging a mutually acceptable appraiser to look at the Routt property.

Mr. Belzer indicated that he has engaged an appraiser.

Council Member Cooper suggested the City pay for the mutually agreed upon appraiser.

City Manager Danielson differentiated between the valuation and eminent domain processes and recommended the Council proceed with adoption of the resolutions of necessity while staff continues a good-faith effort to reach agreement with the remaining property owners.

***Motion: M/S Davis/Hume** to adopt the following resolutions 1) authorizing the acquisition by eminent domain of the property interests for the Sheldon Road/State Route 99 interchange Reconstruction project; 2) making findings: a) The public interest and necessity require the project, b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury, c) The property interests are necessary for the proposed project; and d) The offer required by Government Code section 7267.2 has been made to the owner(s) of record of the property interests to be acquired; 3) authorizing the City Attorney to file suit in eminent domain to acquire such property interests, to apply for orders for possession before judgment, and to prosecute the actions to final judgment, and 4) Authorizing the deposit of funds in court from the funds lawfully available:*

- Resolution No. 2006-319**
- Resolution No. 2006-320**
- Resolution No. 2006-321**
- Resolution No. 2006-322**
- Resolution No. 2006-323**
- Resolution No. 2006-324**

- Resolution No. 2006-325**
- Resolution No. 2006-326**
- Resolution No. 2006-327**
- Resolution No. 2006-328**
- Resolution No. 2006-329**

A separate motion was made for each resolution by Council Member Davis, seconded by Council Member Hume, and all passed by individual votes by the following vote: Ayes: 5; Noes: 0.

Agenda Item No. 6.2: A public hearing to consider adoption of resolutions calling an election and declaring results of the Special Election for Annexation to Community Facilities District No. 2006-1 (Maintenance Services) and first reading of an Ordinance levying and apportioning the Special Tax to the annexing area (Annexation No. 4)

RECOMMENDATION:

1. Adopt 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. 2006-1 (Maintenance Services) to the qualified electors;
2. (*Following tabulation and certification of ballot results by the City Clerk*) Adopt resolution declaring the results of the special election held on December 13, 2006 for the fourth annexation to Community Facilities District No. 2006-1 (Maintenance Services); and
3. Introduce and waive the full reading, by substitution of title only, an Ordinance levying and apportioning the special tax in territory annexed to Community Facilities District No. 2006-1 (Maintenance Services) Annexation No. 4.

Mayor Pro Tem Scherman declared the public hearing open at 10:33 p.m.

Andrew Griffin, Finance Analyst, provided an overview of the staff report and recommendation.

With no public requests to speak, Mayor Pro Tem Scherman closed the public comment opportunity at 10:34 p.m.

Motion 1: *M/S Cooper/Hume to adopt Resolution 2006-330 calling an election to submit the question of levying a special tax within the area proposed to be annexed (Annexation No. 4) to Community Facilities District No. 2006-1 (Maintenance Services) to the qualified electors. The motion passed by the following vote: Ayes: 5; Noes: 0.*

The City Clerk announced the election results: of 17 possible votes, 17 affirmative votes were received to levy the special tax in the annexed area.

Motion 2: *M/S Cooper/Hume to adopt Resolution 2006-331 declaring the results of the special election held on December 13, 2006 for the fourth annexation to Community Facilities District No. 2006-1 (Maintenance Services). The motion passed by the following vote: Ayes: 5; Noes: 0.*

Motion 3: *M/S Cooper/Hume to introduce and waive the full reading, by substitution of title only, Ordinance 47-2006 levying and apportioning the special tax in territory*

annexed to Community Facilities District No. 2006-1 (Maintenance Services) Annexation No. 4. The motion passed by the following vote: Ayes: 5; Noes: 0.

REGULAR AGENDA ACTION ITEMS/RECOMMENDATIONS

Prior to consideration of Agenda Item No. 7.1, Mayor Pro Tem Scherman allowed public comment from Mike Barnbaum on Agenda Item No. 7.3. See Item 7.3 for Mr. Barnbaum's comment.

Agenda Item No. 7.1: An ordinance suspending residential photovoltaic solar system permit fees for calendar years 2007-09

RECOMMENDATION: Introduce and waive the full reading, by substitution of title only, an ordinance suspending residential photovoltaic solar system permit fees as found in Section 16.90.030 of Chapter 16.90 of the Elk Grove Municipal Code for calendar years 2007-09.

Richard Renfro, Chief Building Official, provided an overview of the staff report and recommendation.

PUBLIC COMMENT:

Professor Robert Waste consultant to SMUD, and to the City of Elk Grove in the capacity as consultant for intergovernmental relations, provided comment in support of the item for Council consideration.

Motion: *M/S Leary/Cooper to introduce and waive the full reading, by substitution of title only, **Ordinance No. 48-2006** suspending residential photovoltaic solar system permit fees as found in Section 16.90.030 of Chapter 16.90 of the Elk Grove Municipal Code for calendar years 2007-09. **The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 7.2: Appointment of representation to the City Council Boards, Commissions, and Committees

RECOMMENDATION: Review the current roster of Council-appointed committees and appoint or reappoint members to the Planning Commission, Trails Committee, Committee for the Arts, and Disability Advisory Committee or direct the City Clerk to solicit applications.

Peggy Jackson, City Clerk, provided an overview of the staff report and recommendation.

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

Council Member Cooper named David Simpson to the Disability Advisory Committee.

Council Member Davis requested the application process be expedited for his appointee to the Planning Commission. He also requested applications be solicited for the Elk Grove Committee for the Arts and the Trails Committee. He indicated that he did not wish to have applications solicited for the Disability Advisory Committee.

No other changes to appointments were indicated.

By Council direction above, the following appointments were confirmed:

Planning Commission

Frank Maita	(Scherman)
Timothy Murphy	(Leary)
Richard Greene	(Cooper)
Paul Lindsay	(Hume)

Elk Grove Trails Committee

Lisa Dixon	(Scherman)
Sharon Anderson	(Leary)
Steve Zehnder	(Cooper)
Mark Mendenhall	(Hume)

Elk Grove Committee for the Arts

Cheryl Griess	(Scherman)
Marsha Holmes	(Leary)
Michael Gill	(Cooper)
Sally Guttridge	(Hume)

Disability Advisory Committee

Leslie David Treece-Sinclair	(Scherman)
David Lyonel Morgan	(Leary)
David Simpson	(Cooper) (See appointment above)
Bobbi Jordan	(Hume)
Robert Dayton	(Davis)

Note: Agenda Item No. 7.3 was deferred to January

Agenda Item No. 7.3: Review Council appointments to regional boards, commissions, and committees

RECOMMENDATION:

Review Council appointments to regional boards, commissions, and committees and provide direction.

PUBLIC COMMENT:

Mike Barnbaum advised the Council of the San Joaquin Valley Rail Committee and encouraged the City to consider participation should the opportunity present itself. He also encouraged appointment of Sarah Johnson as the public member participation.

Agenda Item No. 7.4: Cure and/or correct (Gov't. Code §54960.1) and reconsideration of action taken on November 8, 2006 regarding public employee evaluation and compensation; reestablish the City Council's ad-hoc compensation committee to review and make recommendations about compensation and benefits for the City Manager and City Attorney.

RECOMMENDATION: The recommended action is for the Council to take the "cure or correct" action in open session. Then go to the closed session portion of the reconsideration item. Once the closed session has ended, the regular City Council meeting will be reconvened in open session. The Mayor or presiding officer will then make any announcements required by the Brown Act relative to reportable actions taken during the closed session. Then Council would go to the Open Session portion of the reconsideration item.

John Danielson, City Manager, urged the Council to reverse all action relative to the employment contracts of the City Manager and City Attorney taken at the November 8, 2006 Council meeting. He also urged the Council to utilize a sub-committee comprised of two council members to independently review compensation actions, providing the authority to the sub-committee to retain legal counsel and human resources input, publicly reporting back to the Council on an appropriate course for compensation.

City Attorney Anthony Manzanetti reiterated Mr. Danielson's recommendation. Mr. Manzanetti reviewed the cure and correct process. Mr. Manzanetti stated he does not wish to have his salary or compensation adjustment considered prior to his next evaluation schedule.

PUBLIC COMMENT:

The following persons provided public comment for Council consideration: **Harold Ayers, Beverly Adams, Connie Conley.**

A) CURE OR CORRECT:

OPEN SESSION:

Withdraw, reverse, void or reaffirm City Council action of November 8, 2006 regarding approval of changes to the City Manager's and City Attorney's contracts.

In response to Council Member Hume, City Attorney Manzanetti noted that the letter dated December 8, 2006, from Steven Rudolph, legal counsel from McDonough Holland & Allen is acknowledged as part of the meeting record.

Council Member Leary provided information on retirement health benefit coverage for a myriad of public agency employees and suggested that should the Council create an ad-hoc committee, the committee should also be charged with researching health care benefits and thresholds for the City Attorney and City Manager as well as for law enforcement and other city staff. He spoke in support of retirement medical benefits for the City Manager.

Council Member Davis voiced support for reviewing city-wide benefits. He expressed that the action proposed is to correct the process.

Mayor Pro Tem Scherman added that the City Manager initiated some time ago review of City employee retirement health benefits.

Motion: M/S Cooper/Leary to void City Council action of November 8, 2006 regarding approval of changes to the City Manager's and City Attorney's contracts. The motion passed by the following vote: Ayes: 5; Noes: 0

B) RECONSIDERATION:

Pursuant to Government Code Section 54957.7(a) at Mayor Pro Tem Scherman request, the City Clerk announced in open session the items to be discussed, as indicated below. At 11:04 p.m. the City Council adjourned to closed session.

1. CLOSED SESSION:

- a. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION (GC §54957)**
Title: City Manager

- b. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION (GC §54957)**
Title: City Attorney

The Council reconvened open session at 12:48 a.m. Mayor Pro Tem Scherman reported there was no reportable action taken during closed session

2. OPEN SESSION:

Discussion and possible action regarding Council Appointees compensation and benefits – City Manager and City Attorney; Reestablish the City Council's *Ad Hoc* Compensation Committee to review and make recommendations about compensation and benefits for the City Manager and City Attorney.

Motion: ***Moved*** by Council Member **Hume** to form an ad-hoc committee; ***Second*** and amended by Council Member **Leary** to appoint Council Members Cooper and Scherman as the ad-hoc committee. ***The motion passed by the following vote:***
Ayes: 5; Noes: 0

In response to **City Attorney Manzanetti's** request to identify the nature of the committee, **Council Member Hume** responded that the ad-hoc committee would report back to the Council regarding potential litigation.

GENERAL ADMINISTRATION INFORMATION

Police activities report – Chief Simmons

Announced a ceremony to recognize promotions will be held on December 14, at 2 p.m., in the Council Chambers.

COUNCIL COMMENTS/REPORTS/FUTURE AGENDA ITEMS

Reports on Regional Boards, Commissions, Committees

Council Member Cooper

- Reported no action by SACOG pending Council's appointment of a representative to the Joint Powers Authority (Elk Grove – El Dorado – Rancho Cordova Connector)
- Future agenda item: consider a resolution on January 10 to place the City Clerk under the auspices of the City Council (By consensus).

Mayor Pro Tem Scherman

- Elk Grove Senior Center – reported positive reaction to the bus service to the center; the Oktoberfest celebration was well attended, raising approximately \$6,000; Center volunteers were honored with a dessert appreciation event.
- SRCSO – working on an outreach effort to provide the public with information on the sewer lifeline rate assistance.

- Alerted Council members who serve as alternates on regional boards, commissions and committees, that they may be called to attend meetings as vacancies on the regional boards were not appointed as scheduled.

Council Member Leary

- Future agenda item: Consider creation of an ad-hoc committee to explore employee benefits.
- Announced that he with Council Member Cooper met with the Community Services District Board Directors Albiani and Grueneberg and staff member Jeff Ramos and executive staff to discuss parks. He requested the future agenda items be considered on January 10:
 - a) release \$2.7 million for the fire station in Laguna Ridge
 - b) approve the CSD Fire Department nexus study establishing a district-wide development impact fee schedule
 - c) have a mutually acceptable indemnification agreement related to the nexus study
 - d) reconsider the policy on the release of development impact fees.

Mayor Pro Tem Scherman questioned why City staff member Kate Rosenlieb was not included in the 2 x 2 meeting as was the direction of Council.

Council Member Leary responded that it was his understanding that attendance of staff was optional.

There was Council consensus to return the item on January 10 for discussion.

Council Member Davis

- *Future agenda item: Create an ad-hoc committee to study a Full-scale audit of City financial processes and performance (i.e., Council procedures, efficiency and effectiveness of the contract employee/consultants model, billing methodology, business license fees, city's organizational structure, creation of an ethics commission, commingling of city services with the same contractor) by appointing a Committee of the Council to begin the audit process. Reports should come back to the Council and staff. Council should develop the criteria of the audit with the audit returning to the Council in a public session.*

Mayor Pro Tem Scherman announced that a special meeting will be held on December 21, 2006 at 5:30 p.m. to discuss anticipated litigation.

There were no disclosures on travel/training expenditures.

CLOSED SESSION

The closed session items were not heard at this meeting.

Agenda Item 10 A): EXISTING LITIGATION

Pursuant to GC 54596.9(a)

One (1) case

1. Elk Grove Community Services District v. City of Elk Grove,
Sacramento Superior Court Case No. 05AS00612

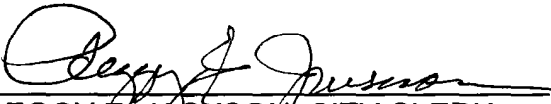
**Agenda Item 10 B): CONFERENCE WITH LEGAL COUNSEL – Anticipated
Litigation**

Pursuant to GC Section 54956.9(b)

One (1) Case

ADJOURNMENT

With no additional business to conduct, the December 13, 2006 City Council meeting was adjourned in memory of Claudine Jackson on December 14, 2006 at 1:07 a.m.


PEGGY E. JACKSON, CITY CLERK

ATTEST:


SOPHIA SCHERMAN,
MAYOR PRO TEM