

MINUTES OF THE CITY COUNCIL
REGULAR MEETING
Wednesday, February 27, 2008

CALL TO ORDER/ROLL CALL

Mayor Davis called the regular City Council meeting of February 27, 2008 to order at 6:02 p.m.

Present: Mayor Davis, Vice Mayor Hume, Council Members Cooper, Leary, and Scherman

Absent: None.

Amy Cochran led the Pledge of Allegiance.

Mayor Davis asked that a moment of silence be observed.

APPROVAL OF AGENDA

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

CLOSED SESSION

None.

PRESENTATIONS/ANNOUNCEMENTS

Agenda Item No. 4.1: Senator Dave Cox presented a proclamation by resolution of the California State Senate to Police Chief Robert Simmons saluting the Elk Grove Police Department, Police Chief Robert Simmons, and the Street Crimes Unit for their part in reducing criminal drug operations in the region.

Agenda Item No. 4.2: Phillip Pennino, of the San Joaquin Regional Rail Commission (SJRRRC), presented information regarding Central Valley commuter rail service. The Altamont Commuter Express (ACE) has been in operation since May 1995, providing four commuter trains traveling from Stockton to San Jose, and the SJRRRC has worked towards an interregional effort to expand Central Valley rail services. The SJRRRC has initiated negotiations with Union Pacific and has identified the former Southern Pacific rail line that passes through the east side of Elk Grove as a preferred site for future planning. The SJRRRC appreciated the efforts of the City of Elk Grove which included identifying the area for future transportation needs in the General Plan and commencing both environmental and alignment studies for the station and rail line. The SJRRRC looked to provide four to six weekday trains with a mid-day service in addition to regular commute hours. The trains are expected to be similar to ACE trains and will run on bio-diesel. The SJRRRC was looking for input from the Advisory

Committee, created one year ago of regional representatives, to explore funding possibilities and maintain an on-going dialogue to bring light rail to the region.

In response to Council Member Leary, **Mr. Pennino** stated that it would be unlikely that freight traffic on the east line would be shifted to the west side rail line to accommodate commuter rail traffic, as the Sacramento junction on the west side was not conducive to efficient freight operations.

PUBLIC COMMENT

Sarah Johnson spoke in support of bringing passenger rail service to Elk Grove and offered information resources on current regional light rail efforts.

Constance Conley noted the participation and attendance by Elk Grove representatives and citizens at the February 26 Tri-City Mayoral Summit. She commented that the meeting was a positive start in providing an open forum to raise regional issues and discuss possible solutions, options and ideas.

Janet Toppenberg announced that the Elk Grove Chamber of Commerce would be hosting the State of City Address on March 27 as an evening dinner banquet in order to open the event to a broader audience, who may not have been able to attend in the past, due to the event being held in the afternoon.

Isabella Dobson spoke in support of keeping the Elk Grove Airport open.

Jimmie and Tiffany Rogers spoke in support of keeping the Elk Grove Airport open and presented a petition signed by 103 concerned students (filed) to maintain the airport as a recreation and education resource.

Derrick Jackson announced a job fair to be held March 1 sponsored by DeVry University.

CONSENT CALENDAR ITEMS

Alisa Okelo-Odongo, representing Pacific Gas and Electric (PG&E), spoke in support of approval of the smart meter program for agenda item 6.15.

Constance Conley spoke in support of item 6.16 and commended the commitment of the City to take a role as a regional leader for public safety and to create partnerships with regional government.

Motion: M/S Hume/Scherman to approve the Consent Calendar as presented, with the abstention of Vice Mayor Hume and Council Member Cooper on the approval of the February 13, 2008 minutes (Item 6.3), due to their absence from the meeting. The motion passed by the following vote: Ayes: 5; Noes: 0

Agenda Item No. 6.1: Received the November 2007 and December 2007 Treasurer's Reports

Agenda Item No. 6.2: Approved General Warrant No. 34769 through 35229 dated January 1, 2008 through January 31, 2008 and Electronic Fund Transfer 2008078 through 2008088

Agenda Item No. 6.3: Approved City Council Meeting Minutes of: a) February 13, 2008 Special Meeting; and b) February 13, 2008 Regular Meeting. ***Passed by the following vote: Ayes: 3; Noes: 0; Abstained: 2 (Cooper, Hume).***

Agenda Item No. 6.4: **Ordinance No. 4-2008** adopted amending the City of Elk Grove Zoning Map from Agricultural Residential (5-acre minimum) Multifamily AR-5(MF) to Shopping Center Multifamily SC(MF) for the Bond Waterman Retail Project (**Second Reading**)

Agenda Item No. 6.5: **Ordinance No. 5-2008** adopted amending the City of Elk Grove Zoning Map from Agricultural Residential (5-acre minimum) AR-5 to Shopping Center SC for the Elk Grove Church of Christ Project (**Second Reading**)

Agenda Item No. 6.6: Received report on City Manager approved purchases and contracts authorized by City Purchasing Ordinance, filed through February 19, 2008

Agenda Item No. 6.7: **Resolution No. 2008-42** adopted approving the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring Reporting Program and approving the Safe Routes to School Bridge Over Laguna Creek Project

Agenda Item No. 6.8: **Resolution No. 2008-43** adopted approving McCown Parcel Map No. 04-720.00

Agenda Item No. 6.9: **Resolution No. 2008-44** adopted approving Laguna Ridge-Bayless / Pulte Parcel Map No. 06-1046.00

Agenda Item No. 6.10: **Resolution No. 2008-45** adopted accepting the Street Name and Stop Sign Replacement Project 2007 as complete and authorizing the City Engineer to prepare a Notice of Completion and the City Clerk to file the Notice of Completion with the Sacramento County Recorder

Agenda Item No. 6.11: **Resolution No. 2008-46** adopted waiving the competitive bid process and authorizing the City Manager to execute a professional services contract with Kleinfelder, Inc. for on-call materials testing and related construction inspection services for an amount not to exceed \$900,000 per fiscal year

Agenda Item No. 6.12: **Resolution No. 2008-47** adopted authorizing the City Manager to execute a three-year agreement with the City of Sacramento for battery disposal at the Permanent Household Hazardous Waste Collection Facility

Agenda Item No. 6.13: Resolution No. 2008-48 adopted amending the 2007-12 Capital Improvement Program and the Fiscal Year 2007-08 budget by approving the allocation of \$2,198,275 of Proposition 1B Funds for the Annual Pavement Resurfacing Program

Agenda Item No. 6.14: Resolution No. 2008-49 adopted authorizing the City Manager to execute a work order with Nolte Associates, Inc. for professional engineering services not to exceed \$23,400 for the Calvine/Bradshaw Infrastructure Master Plan

Agenda Item No. 6.15: Resolution No. 2008-50 adopted authorizing the City Manager to execute the Street Light License Agreement with Pacific Gas & Electric Company to deploy the SmartMeter Program

Agenda Item No. 6.16: Resolution No. 2008-51 adopted authorizing the City Manager to execute a Memorandum of Understanding with the Sacramento County District Attorney's Office and approving one limited term Community Services Officer in the Police Department

Agenda Item No. 6.17: Resolution No. 2008-52 adopted approving the First Supplemental Fiscal Agent Agreement and authorizing the City Manager to transfer monies from the Community Facilities District 2005-1(Laguna Ridge) Acquisition Fund to the Interest Fund sufficient to meet bond payments when due

PUBLIC HEARINGS

Agenda Item No. 7.1: A public hearing to consider the appeal of Century Vision Developers, Inc. regarding the Planning Commission decision on January 17, 2008 to approve Swainson's hawk foraging habitat mitigation measure as established in the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for Elk Grove Distribution Center (EG-07-056; APN: 134-0670-013 and 134-0640-045)

RECOMMENDATION:

This appeal from the Planning Commission concerns a challenge to a Swainson's hawk mitigation measure imposed on the development project commonly referred to as the Elk Grove Distribution Center. For the reasons detailed in the staff report, staff recommends that the City Council deny the appeal and uphold the Swainson's hawk foraging habitat mitigation measure, as set forth in the mitigated negative declaration and conditions of approval, and approve the mitigation monitoring and reporting program for the project.

Mayor Davis declared the public hearing open.

Gerald Park, Senior Planner, provided an overview of the staff report and recommendation.

Taro Echiburu, Environmental Planning Manager, reported a correction in the staff report to indicate the meeting with the California Department of Fish and Game (CDFG) occurred on-site February 13, 2008, not 2007. The CDFG confirmed the habitat is suitable for Swainson's hawk foraging, and two visits conducted by staff since the January 17, 2008 Planning Commission meeting also confirmed the site provides suitable foraging habitat. Mr. Echiburu noted that the applicant presented a report today (filed) questioning the quality of the foraging habitat of the project site.

Brian English, applicant, encouraged Council to re-examine City fees, as currently they discourage development and economic investment. Mr. English reported that the current proposed project is just over \$100 per square foot; fees, primarily the Swainson's hawk fee, comprise approximately \$15 per square foot of that amount. Mr. English believed his project would enhance the local economy, both through the intended use of the site, and through the additional commerce generated in response to the operation of the site. Mr. English felt that the Swainson's hawk fee, in particular, was out of proportion in relation to other agencies in the region and asked Council for relief.

Council Member Leary stated that the Swainson's hawk fee was the same as the County's Swainson's hawk fee, and inquired if the applicant had considered pursuing the project elsewhere where fee structures were more amenable to development.

Mr. English responded that the area is preferable for long-term investments such as his project.

PUBLIC COMMENT:

Sarah Johnson urged Council to deny the appeal and addressed the importance of habitat conservation for the Swainson's hawk.

Gene Robinson stated that the City needs tax revenue and should not discourage development that can generate tax revenue. Mr. Robinson asked the Council to consider revising the Swainson's hawk fee structure to be proportional in relation to the size of a project. He also asked that Council take into consideration the location of a project and nearby alternatives for foraging habitat of the Swainson's hawk. Mr. Robinson noted that the hawk is a migratory bird and expressed his opinion that the species has ample open space to the east and the capacity to relocate away from urban and industrial development.

Diane Moore, speaking on behalf of the applicant, believed that the findings of significant impact in the staff report were excessive and unfounded. Ms. Moore presented observations (filed) bringing into question the adequacy the project space serves as foraging habitat for Swainson's Hawk. The area is suitable, but no evidence exists at the site indicating regular use by hawks. Ms. Moore observed that the site is surrounded by industrial uses on three sides, remains fallow, is not irrigated, and is an

appreciable distance from the river nest sites. Ms. Moore brought into question the adequacy of using the fourteen-year old CDFG staff report. She noted the report ends with a recommendation that the document should be updated annually. Ms. Moore cited exceptions to the CDFG report on page 13, which states that cities should focus development in open spaces already within industrialized areas, and small disjuncted properties in such areas should be exempt unless they provide more than five acres of foraging habitat or are within one quarter mile of an active nest. In response to the statement that County fees are equivalent to City fees, Ms. Moore agreed, but noted that current County mitigation would allow an exemption, resulting in no fee. Ms. Moore stated that her recent communication with the CDFG gave her an impression that the agency believed the foraging habitat quality of the parcel had likely diminished to negligible levels long ago. Ms. Moore questioned staff's recent survey of nests in the region, noting one tree housing a nest had been removed for street improvements, and no source from the CDFG was cited for the three nests identified by staff. Ms. Moore concluded that nest proximity is not an appropriate gauge of what the hawk actually uses as foraging habitat and that the likelihood of a hawk foraging on the applicant's site was very low.

William Abbott, legal counsel for the applicant, raised a legal issue of proportionality. The applicant views its property as low value for foraging habitat, but the fee has no scale to compare with land that is prime foraging habitat. Mr. Abbott indicated the applicant would consider the current condition of the site suitable at a 4:1 ratio for mitigation rather than the regular 1:1 ratio. Mr. Abbott believed that the CEQA guideline of rough proportionality has not been met for this project and requested that Council stay the appeal pending completion of an examination of the fee structure.

Mayor Davis declared the public hearing closed.

Council Member Leary confirmed that the City has worked with, and continues to partner, with the CDFG on the current fee structure.

Vice Mayor Hume stated that the City was currently not in a position to address the appeal of fees for the project due to pending litigation. Vice Mayor Hume opined that the application of the fee was not appropriate for this project, posing that if the land was offered as a conservation easement it would likely be denied. He pointed out that fees for the project amount to over \$200,000. He estimated that fees computed for larger projects in the industrial zoned area of Elk Grove would equate to total fee sums likely to discourage development and investment. Vice Mayor Hume questioned the nexus between the fee and actual impacts and suggested moving the item to a future date to give the City the opportunity to review the fees with the CDFG.

Mayor Davis asked for an estimate of how long it would take to revisit this issue, to which Mr. Echiburu responded not until late summer, as a nest survey was required to be completed that would be conducted from March to late August.

Motion: M/S Hume/Leary to continue the matter to a date uncertain, stay the appeal, and direct staff to continue working with the California Department of Fish and Game, with the applicant, and others in the environmental community, and to return to Council with a recommendation to amend the Swainson's Hawk Impact Mitigation Ordinance. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 7.2: A public hearing to consider the Lawson Plaza Project application for a General Plan Amendment, Rezone, Tentative Parcel Map, and Design Review (EG-07-107; APN: 127-0020-003)

RECOMMENDATION:

The Planning Commission recommended (5-0) that the City Council adopt a resolution denying the Lawson Plaza Project application for a General Plan Amendment, Rezone, Design Review, and Tentative Subdivision Map (EG-07-107) subject to the findings and evidence.

Mayor Davis declared the public hearing open.

Nina Stevens, Project Planner, provided an overview of the staff report and recommendation. Ms. Stevens stated that the project is incompatible with surrounding land uses situated in an urban-rural transition zone and reported that if the project is approved the applicant would be required to present an engineering solution to address drainage issues.

Edward Phillips, applicant, stated that the Federal Emergency Management Agency (FEMA) floodplain map is out of date and that improvements constructed by recent development have improved drainage in the area.

Raymond Cook, engineer for the applicant, stated that the drainage issues on the property are not the result of a direct conveyance, but are caused by a backwater effect from Laguna Creek. He stated that a pit noted in Zone A-H on the floodplain map has been filled and the inclusion of a culvert by recent development lessens the impact of the floodplain by separating two previously connected flood zones. Mr. Cook stated that appropriate paperwork was not filed with FEMA reflecting recent development drainage improvements to the area. Mr. Cook reported that the applicant would consider filing a Letter of Map Revision (LOMR) to FEMA to adequately represent current conditions.

Mr. Phillips reported that the project proposal includes a drainage study he felt mitigates and improves local flooding conditions. He believed that senior affordable housing was an asset lacking in the east side of the City and felt the project was compatible with the area, potential future transit, and the commercial corridor of Elk Grove-Florin Road.

PUBLIC COMMENT:

Sarah Johnson asked the Council not to examine the project in isolation. She noted that local development near the project has faced several challenges and believed that comprehensive planning efforts would assist in addressing area issues.

Tom Shine agreed with the recommendation to deny the project and reported the results of a site survey he conducted of the area: 1) he identified 20 rural residences that would be impacted by the project, 2) he noted the area would experience additional run-off from the future Vintara Park project and questioned if the submitted drainage study took this factor into consideration, and 3) he questioned the commercial need in the area, as approximately half of the business spaces in the vicinity of the project were vacant.

Sharon Lynes favored denial of the project and presented pictures of yearly flooding in the area (filed) and a petition signed by 26 citizens (filed). Ms. Lynes believed substantial damage would occur to the Whitehouse Creek floodplain if the project was approved, and since landfill is not permitted, the creek would have to be altered.

Harinder Bains felt the project should be denied citing flood issues trapping cars and causing rail crossings to malfunction. Mr. Bains noted that the combination of flooding, inadequate infrastructure, and increased traffic from the project would worsen conditions and quality of life in the area.

Mark Thorpe asked Council to deny the project. Mr. Thorpe stated he never received a response from the applicant regarding his requests for information concerning the project. He observed: 1) existing design flaws in current drainage infrastructure add to the flood problems of the area, 2) that the area does not have the infrastructure to handle increased foot and vehicle traffic, 3) that animals in the rural setting of Sheldon would be adversely effected by high density development, and 4) there is no assurance that an affordable housing project would only attract, or be specifically designed for, senior citizens.

Mr. Phillips provided a rebuttal that the floodplain designation is incorrect. He added that the retail proposed on the project site is intended to provide jobs for the seniors in the housing unit, and he believed that Campbell Road is bound for economic expansion. Mr. Phillips concluded by stating he did not feel the area was rural considering intentions for future growth for the area and the project's proximity to Elk Grove-Florin Road.

Greg Lawson, owner, emphasized the need for senior housing, especially near the potential future transit station, and felt that the practices of the City are losing investor interest for future affordable senior housing projects.

Christine Crawford, Planning Director, clarified that the issue under consideration concerns land use designation from rural to urban and that drainage issues could be addressed at a future date if the rezone was approved.

Mayor Davis declared the public hearing closed.

Council Member Scherman noted that the City had no control over the pre-existing urban uses in the area, which were approved by the County before incorporation. She expressed her opinion that the site was rural and added that flooding has always been an issue in that area of the City. She had no desire to see additional small retail commercial space added to the existing stock of vacant small retail in the City. She also noted that seven affordable housing developers are engaged in conducting business in the City. Ms. Scherman recognized there was a need for senior housing, but did not see the proposed project as being compatible with the surrounding rural area.

Council Member Leary noted that the area had experienced five floods in the last 30 years and stated he would deny the zone change.

Vice Mayor Hume added that the plans indicate lowering the elevation in portions of the project an additional six feet, possibly complicating drainage issues. In returning to the question of land use compatibility, Mr. Hume was in favor of the Limited Commercial zoning elements in the project as he saw the potential for Campbell Road to develop, but felt the high density housing at RD-30 was extreme. He suggested a mixed-use option with parking occupying regions prone to drainage issues and flooding.

Council Member Cooper felt the area was urban, but that the density of the housing for the project was too high for a zoning area that served as a transition between urban and rural. He agreed with Vice Mayor Hume and saw a potential for a mixed-use proposal and agreed that more affordable housing is needed on the east side of the City.

Mayor Davis agreed that affordable senior housing east of Highway 99 was needed and suggested that a comprehensive plan for the area be explored to examine issues associated with regional public transportation and drainage issues. Mayor Davis concluded that the current FEMA designation appeared to be appropriate, but he encouraged the applicant to pursue the LOMR.

Motion: ***M/S Leary/Scherman*** to adopt **Resolution No. 2008-53** denying the Lawson Plaza Project application for a General Plan Amendment, Rezone, Design Review, and Tentative Subdivision Map (EG-07-107) subject to the findings and evidence. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

NOTE: *Council recessed at 8:12 p.m. and reconvened at 8:30 p.m. with all members present.*

REGULAR AGENDA ACTION ITEMS/RECOMMENDATIONS

Agenda Item No. 8.1: Resolution of application by the City of Elk Grove requesting the Sacramento Local Agency Formation Commission process a Sphere of Influence amendment and directing City staff to file this amendment application

RECOMMENDATION:

Staff recommended that the City Council take the following actions:

1. Adopt resolution requesting the Sacramento Local Agency Formation Commission process a Sphere of Influence amendment to include the area south and east of the existing City boundaries; and
2. Direct staff to prepare all necessary application materials and submit an application to the Sacramento Local Agency Formation Commission for the amendment of the Sphere of Influence.

Taro Echiburu, Environmental Planning Manager, provided an overview of the staff report and recommendation. Mr. Echiburu noted that the County had requested the City limit the Sphere of Influence (SOI) to only include areas intended for urbanization.

PUBLIC COMMENT:

Glenda Stewart asked that her family's property and three other owners by petition (filed) south of Eschinger Road be added to the SOI. She indicated the following reasons for inclusion: 1) other properties near Highway 99 south of Eschinger Road were included, so the request of including southern properties had precedent, 2) out of respect for property owners representing family lines that have resided in the region for over 150 years, 3) inclusion of south side property owners would encompass both sides of Eschinger Road providing opportunities to improve traffic and circulation on a freeway access road, and 4) the large southern properties provide a medium to create an urban-rural transitional buffer.

Karen Shipley agreed with Ms. Stewart, adding that as a south area resident she and her family have always considered themselves members of the Elk Grove community.

Robert Sherry, County Planning Director, noted that the County had concerns with the City's proposed SOI, but was willing to work with the City on a final application map that is: 1) consistent with the South Sacramento County Habitat Conservation Plan (HCP), and 2) holds a commitment to maintaining agricultural uses in the area. Mr. Sherry submitted information from the County (filed) including a proposed SOI map. He indicated that the County wanted to see the creation of an urban-rural buffer zone and emphasized that the HCP was being planned dependent on mitigation of the urbanization of approximately 4,500 acres by the City.

Council Member Leary commented on the successful cooperation between the City and County in the past with the Laguna West annexation.

Vice Mayor Hume received clarification from Mr. Sherry that the proposed County SOI map moved the boundary on the east side of Highway 99 from the proposed City boundary of the Cosumnes River to the County boundary that is further northwest, situated along the 100-year flood plain of the Cosumnes River.

Robert Holderness spoke on behalf of the Cypress Abbey Company and asked that their property be included in the SOI. The property consists of 1,000 acres located east of Highway 99, east of the rail line passing over the Cosumnes River. Four hundred acres are situated in the current Urban Services Boundary (USB) known as Deer Creek Uplands and the remaining 600 acres are in the 100-year floodplain.

Doug Williams agreed with the SOI application map as presented. Portions of his property are in the floodplain and he sees an opportunity for the preservation of land and habitat as the island configuration of the property makes agricultural use difficult. Mr. Williams was pleased that the City would be taking part in regional planning and believed a use similar to the Cosumes River Preserve would be preferable.

Rich Hardesty felt the public was excluded and ignored during the SOI process and asked what zoning uses were planned for the SOI area. He alleged the process was rushed and as a result it has discouraged the support of south area citizens.

Cindy Rau asked that her property be included in the SOI. Representing a family that has resided in the area for over a century, Ms. Rau stated that they felt excluded, noting that their property is just 20 feet away from possible future urbanization. She pointed out that inclusion of both sides of Eschinger Road would provide options to handle increased traffic density from urbanization in the north and could possibly address safety issues of increased urban congestion contending with the operation of farm equipment.

Ken Allred, representing Harry Ranch, asked that the property, consisting of 700 acres, be included in the SOI. Mr. Allred indicated that inclusion would simplify the mitigation of the 400 acres lying in the southern portion of the floodplain. Mr. Allred believed the definitive line of Eschinger Road, as a southern boundary, should remain open to interpretation, and alternatives to a set boundary line should be explored.

Craig Ledbetter asked that his properties in the east be added to the SOI application. Mr. Ledbetter stated that the County letter dated January 7, 2008 is misrepresentative of his property and he would prefer the entire parcel be included, 60% of which would not be available for development because of floodplain zoning restrictions. Mr. Ledbetter clarified that he would like his entire property, and not just a portion, to be included in the SOI.

Bill Mosher stated he would prefer not to have his property split between the jurisdictions of the City and the County and believed the SOI in the east should go to the Cosumnes River. Mr. Mosher agreed that the Habitat Conservation Plan (HCP) is

important, but believed that a successful comprehensive plan for the region would occur when both agencies have secured legal planning authority. Mr. Mosher felt that extending the SOI would ease future mitigation of land and expressed his opinion that the SOI should extend to the natural boundary of the Cosumnes River.

Mayor Davis closed public comment.

Vice Mayor Hume clarified that planning and the creation of zoning designations were not current objectives, and that the SOI application was the first step in gaining the authority and trust to condone the expenditure of resources for planning. Mr. Hume shared his vision identifying the SOI application as the first step in fostering partnerships to plan and create a unique societal asset encompassing open space, agricultural resources, habitat preservation, ground water recharge, and passive recreation for the region. He opined that the beginning of such a process should not be limited by the rigidity of drawing boundaries; adding that the Urban Services Boundary (USB) served as a temporal benchmark but was meant to be revised in the future. He believed the SOI was an opportunity to work together and explore planning alternatives. He did not agree with some of the wording of the proposed resolution and suggested striking time frame limitations considering increasing population demographics in California. He also felt that wording relating to definitive boundaries should be modified to allow room for making a final decision by presenting that approximately 4,500 acres south of current City limits on Kammerer Road would be explored for possible urbanization. He stressed a need for comprehensive, long term planning and establishing a study area through the SOI application to ensure the ability to self mitigate potential open space and potential development.

Mayor Davis felt the process should be expedited and a map included with the application to clarify boundaries.

Council Member Scherman saw a need to move forward, but to also have a sense of agreement from the County. She agreed with Vice Mayor Hume's vision of a passive recreation area. Since the application is the first of many steps in the process, she felt there would be ample time to propose amendments and alterations as needed and several opportunities would be available to interested parties as the process moved forward and evolved.

Council Member Cooper noted that the City has displayed its intent to foster partnership and cooperation as shown through its support of the HCP, and can build further goodwill in drawing an agreeable boundary for presentation in the SOI application. He added that individual cases could be examined at a later date once the process is initiated and moving forward.

Council Member Leary felt the entire study area was based on the assumption that the County was expanding the sewer service area and assessing the needs of the HCP; the expediency in which the SOI was pursued by the City was to provide time for the planning operations of the County. He believed that a conservation partnership seemed

a logical union for the City and County to create a forum of mitigation options for land owners, and to achieve regional goals of urbanization and preservation.

In response to Council Member Leary's question of whether the County was in agreement with the proposed resolution, **Mr. Sherry** indicated the County did not agree and would like to see a map approved with the resolution as designated in the letter submitted by the County. He pointed out that the HCP was focused on the south Sacramento region and not the entire unincorporated County. He noted that, since the City was a signatory to the HCP, the City and County were partnered in planning for the area.

Discussion ensued regarding the SOI map boundary, following which Council concurred to draw the southern boundary at Eschinger Road.

Mr. Sherry indicated that the exact acreage amount of 4,500 acres was of importance to the County in development of the HCP and the County would prefer to see an application that roughly represented such an amount of proposed urbanization.

Vice Mayor Hume stated that the revised boundary map, along with floodplain zoning constraints that will dictate land development in the SOI, would approximately amount to the 4,500 acres.

Jim Estep, Interim City Manager, agreed stating that the proposed map by Council is nearly identical to the County submittal.

Motion #1: **M/S Scherman/Hume** to adopt **Resolution No. 2008-54** requesting the Sacramento Local Agency Formation Commission process a Sphere of Influence amendment to include the area south and east of the existing City boundaries as identified in the revised boundary map and to amend the draft resolution language as follows: "... *current land use projections identify that future growth ~~within the next 20 years~~ will require additional lands outside of the current City Boundary...*" **The motion passed by the following vote: Ayes: 5; Noes: 0.**

Motion #2: **M/S Scherman/Hume** to direct staff to prepare all necessary application materials and submit an application to the Sacramento Local Agency Formation Commission for the amendment of the Sphere of Influence. **The motion passed by the following vote: Ayes: 5; Noes: 0.**

Motion: **M/S Cooper/Scherman** to waive *Rule 6 a)* of Resolution 2007-107; i.e. No new business of the City Council shall be considered after 10:00 p.m. and to hear the remainder of the items on the agenda. **The motion passed by the following vote: Ayes: 5; Noes: 0.**

Agenda Item No. 8.2: Adopt resolution authorizing the City Manager to finalize the Request for Amendments to the previously approved Affordable Housing Loan Agreement for the Montego Falls Apartment Project

RECOMMENDATION:

Staff recommended that the City Council retain the Bond requirement and the language in the negotiated loan documents approved by the City Council on September 26, 2007, adopt a Resolution authorizing the City Manager to finalize the request for substantive amendments to the previously approved Affordable Housing Loan Agreement as shown in Attachment 1 of the staff report, or as otherwise directed by the City Council, and to retain all other existing language of the approved loan documents.

Jim Carney, Housing Advisor, provided an overview of the staff report and recommendation. Mr. Carney noted one correction to the staff report, stating that staff is amendable to the proposed use of funds to acquire land. This would correct the staff recommendation listed under item one of the loan agreement requests for substantive revision.

PUBLIC COMMENT:

Steve Eggert, representing the applicant, asked Council to consider the applicant's performance and financial history before deferring to a standard policy in making its decision. Mr. Eggert stated that Montego Falls is the 31st regional, affordable housing project initiated by the applicant. He noted that the requested bond is a substantial amount that would place a burden on the applicant. In regional comparison, he noted that the Sacramento Housing and Redevelopment Agency (SHRA) does not require a bond security and that the applicant has completed 12 projects where no bond security was required. Mr. Eggert asked Council to empower staff to accept a guaranty in place of the bond requirement.

In response to why the issue was not negotiated before agreeing to the contract, **Mr. Eggert** stated that the applicant was operating under time constraints, and due to staff's delay in processing documents, there was not ample time to conduct an adequate review of the agreement to address the issues currently presented in the applicant's request for amendments.

Council Member Cooper stated he was open to exploring financing options.

In response to Mayor Davis, **Mr. Eggert** explained that the applicant's proposed security is a corporate guaranty and that the City would be the second recipient after the senior lender to receive funds in the event of a default on the agreement. A third equity lender is also a party to the agreement and their claim would be resolved after the City.

Council Member Scherman commented that the City of Folsom requires a bond security for affordable housing projects. She raised concern over the use of alternative securities based on corporate guaranty.

Mr. Eggert countered that bonds are applicable to projects involving non-profit investors, but he viewed the applicant's project as a public-private hybrid.

Vice Mayor Hume suggested continuing the item to allow the applicant to supply evidence to support its request.

Mr. Eggert stated that the efficient building practice of the applicant results in a decreased per unit commitment on behalf of the City. He asked for relief from a condition in section 17 of the regulatory agreement to remove the City's ability to regulate rental prices.

Mr. Carney clarified that the City has the power to review and comment on changing rents per the condition, but not to regulate rents. Mr. Carney stated that the purpose of the condition was to give the City the ability to ensure the project generates adequate revenue to fulfill repayment of the loan owed to the City.

Motion: M/S Hume/Cooper to continue Item 8.2 to the regularly scheduled City Council meeting of March 26, 2008. The motion passed by the following vote: Ayes: 5; Noes: 0.

Agenda Item No. 8.3: Health Retirement Account Eligibility for Chief of Police

RECOMMENDATION:

That Council provide direction to staff as to whether it wishes to amend the plan documents for the Health Retirement Account adopted at its August 22, 2007 meeting to allow for vesting upon approval of the City Council on a case by case basis; and if so, to make a determination as to whether it wishes to authorize the Police Chief to be vested. Council should also consider whether or not it wants to establish criteria for future exceptions to the vesting period.

STAFF REPORT:

Rebecca Craig, Finance Director, provided an overview of the staff report and recommendation. Ms. Craig clarified that the benefits from the Health Retirement Account only cover medical premiums as prescribed by the Internal Revenue Service (IRS) and may not be used to cover costs of expanded medical coverage.

PUBLIC COMMENT:

None.

Council Member Leary stated that Police Chief Simmons has effectively served for four years as the City's first sworn Chief of Police and has deservedly earned the eligibility and benefits. He believed that this early exception should be unique and not alter regular policy or establish criteria for future exceptions. He also noted that the County does not provide appreciable benefits for retirees.

In response to Council, **Ms. Craig** reported that Police Chief Simmons was hired in April 2004.

Council Member Cooper questioned the equity of allowing an exception to policy allowing an appointed staff member who has not served a five-year term to gain the benefits of the program. He also expressed reservations on the reported unquantifiable impact of the program and felt such an unknown effect was not displaying fiduciary responsibility with public funds.

Vice Mayor Hume was not in favor of making an exception to the policy, nor setting such a precedent.

Council Member Scherman believed that Police Chief Simmons did not have an expectation of receiving the benefits of the fund and agreed that an exception to policy would set a precedent for others to seek similar treatment and compensation.

NOTE: No action was taken by Council on Item 8.3.

Agenda Item No. 8.4: Discuss options regarding presentation of question regarding elected mayor

RECOMMENDATION:

Discuss options and direct staff regarding placement of ballot question on elected mayor to the voters.

Susan Cochran, City Attorney, provided an overview of the staff report and recommendation.

PUBLIC COMMENT:

Constance Conley recalled that, four years ago, citizens expressed a desire to directly elect the mayor.

Sharon Lynes commented that there was not consensus in wanting to directly elect the mayor as many options were offered in discussion of exploring the process to become a charter city. Ms. Lynes expressed her concern that the details and issues are overwhelming in regard to pursuing a charter city and she felt the City should take adequate time to analyze and assess all options.

Mayor Davis closed public comment.

Vice Mayor Hume believed the matter should be examined comprehensively in light of other possible changes in pursuing a city charter.

Council Member Scherman cited the expenses of time and money in initiating this process and stated the timing is poor considering recent negative economic conditions.

Council Member Leary felt the future Charter Commission should handle the matter.

NOTE: *By concurrence, Council agreed to have the topic of an elected mayor process be considered by the proposed Charter Commission.*

GENERAL ADMINISTRATION INFORMATION

Police Chief Simmons announced his official retirement would be effective March 3, 2008, but that he would continue to serve the City until appointment of a new Chief of Police. Police Chief Simmons appreciated Council's consideration of the benefits program and said he expected to serve the City well into late summer. Police Chief Simmons also announced an upcoming crab feed to help support the Police Explorers Program.

COUNCIL COMMENTS/FUTURE AGENDA ITEMS

Reports on Regional Boards, Commissions, Committees; Travel/Training Expenditures Disclosure (*in accordance with Resolution 2006-295 and Government Code § 53232.3(d)*):

Council Member Cooper inquired on the status of the contract services report and was informed it would be presented to Council next month. He requested an item concerning Gold's Gym be placed on an upcoming agenda. He reported that the Teen Center is initiating an audit by the organization, Youth in Christ, due to the recent change in management.

Vice Mayor Hume reported that Sacramento Regional Transit appointed Mike Wiley as its General Manager / Chief Executive Officer and the Elk Grove - Rancho Cordova - El Dorado Connector Project has a new Executive Director, Tom Zlotkowski.

Council Member Scherman reported that the Senior Center Board met to discuss: 1) 2008-09 goals for the Poppy Ridge property, 2) a driver's training workshop, and 3) formation of the nomination committee for 2008-09. She also reported on the Sacramento County Water Agency Board demonstration of flushing the creek. She attended a presentation hosted by the Elk Grove Historical Society on gas lights and lighting. She attended the Cosumnes Community Services District (CCSD) Board meeting, the Asian Chamber of Commerce installation of officers dinner, the Elk Grove Teen Center Board meeting as an alternate, the League of California Cities Board meeting, the Elk Grove Chamber of Commerce mixer, and reported on the Sacramento Public Library Authority Board meeting where matters relating to minor damages to library property were discussed.

Council Member Leary raised the issue that reduced contract services provided funds to cover the \$2 million structural deficit faced by the City. He noted that new revenue sources from the Kohl's store and the BMW auto dealership are unlikely to provide enough funding to remedy the deficit. He urged Council to consider looming budgetary fiscal issues.

Mayor Davis reported on the Mayor's Summit between Elk Grove, Lodi, and Galt where a primary area of concern identified was the Highway 99 corridor. He stated that by working together, the cities believed they could improve securing federal and state funding to provide maintenance, safety improvements, and possible construction and expansion of the highway. He suggested bringing Home Owner Association (HOA) leaders together at a neighborhood leader summit to consolidate City outreach efforts and to generate networking possibilities among the HOAs. He reported that a request was presented by Sacramento County Board of Supervisors Member Nottoli, to have a City representative on the San Joaquin Valley Rail Committee. Mayor Davis also announced that he and Vice Mayor Hume would be attending the upcoming Cap to Cap trip in Washington, D.C.

Jim Estep, Interim City Manager, sought direction for action on the issue of HOAs.

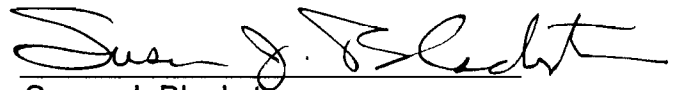
Council Member Scherman responded that she had been in the process of collecting HOA information and would work with staff on continued outreach efforts.

ADJOURNMENT


With no additional business to conduct, the February 27, 2008 City Council meeting was adjourned at 10:50 p.m.

Minutes prepared by:


Jason Rolf Lindgren
City Clerk Department Analyst


Susan J. Blackston
Assistant City Clerk

ATTEST:


GARY DAVIS, MAYOR