

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

CALL TO ORDER/ROLL CALL

Mayor Davis called the regular City Council meeting of August 27, 2008 to order at 6:17 p.m.

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

Absent: None.

Public Works Director Cheryl Creson led the Pledge of Allegiance.

Mayor Davis asked that a moment of silence be observed.

APPROVAL OF AGENDA

Motion: M/S Leary/Cooper to pull Item 8.8 at staff's request and approve the remainder of the agenda as presented. The motion passed by the following vote: Ayes: 5; Noes: 0.

CLOSED SESSION

None.

PRESENTATIONS/ANNOUNCEMENTS

Mayor Davis announced that Public Works Director Cheryl Creson would soon be resigning from her position and he expressed gratitude for her service.

Ms. Creson commented that she lived in Elk Grove for 17 years, served the City before and after its incorporation, and hoped to again in the future in her capacity as consultant for Parsons Brinckerhoff.

Council Member Cooper recalled that Ms. Creson worked for the Sacramento County Public Works Department for 19 years. He stated that Ms. Creson did an outstanding job for the City of Elk Grove and was known as a consensus builder.

Mayor Davis reported that the Elk Grove Finance Department received a certificate of achievement from the Government Finance Officers Association.

PUBLIC COMMENT

Lynn Wheat believed that the 230 acre site located at Bond and Waterman Roads should be included in the evaluation for the South Sacramento Habitat Conservation Plan. She noted that it is home to many migratory species, endangered and threatened plants and animals, and contains quality vernal pools and wetlands that support local habitat. She urged Council to protect open preserves within the City, allowing wildlife to remain on current sites.

Keith Herron, Chief Executive Officer of the Target Excellence Program expressed support for the Youth Commission proposal.

Valerie Darden representing Moments 2 Success, a youth and family services organization, thanked Council for its partnership with the Non-Profit Network Center.

Susan McDonald, joined by Damon Mireski, thanked Council for the opportunity to organize the Youth Master Plan Committee. Ms. McDonald stated that she serves on the Neighborhood Youth and Teen Resources Subcommittee. Its goal is to create a network of schools, local government agencies, churches, nonprofit organizations, and neighborhood associations to collaborate on identifying programs and communicating about needs of local youth.

Michael Hardy asked Council to direct staff to process his request for appeal of a guest house second dwelling unit at 10294 Wrangler Drive. He reported that the applicant applied for and signed a permit for a guest house. It requires a setback equal to the height of the building, which in this case is 29 feet. Currently the proposed structure is 11 feet off Mr. Hardy's property line. Mr. Hardy stated that the City made the determination that it could be reclassified as a second dwelling unit. He believed that the applicant is trying to circumvent the standards of the rural community and has done such with the aid of City staff. Mr. Hardy reported that he received a letter today from the City Attorney denying his request for an appeal on the basis that it was the Building Department that determined the classification of the structure, not the Planning Department. He called the Building Department today to ask who determined the classification of the structure and they said it was the Planning Department. The City's Code states that any person can appeal any action of the Planning Director. He pointed out that the act of approving plans by the Planning Department is an action and is therefore subject to appeal. Mr. Hardy stated that the granting of an appeal stays all subsequent permits, so it would not be appropriate for Council to consider Item 8.10 until the appeal process has been completed. Additionally, he believed that approving the structure as proposed at 10294 Wrangler would set a precedent and effect the Dominguez Variance Project, which Council denied on May 28, 2008.

Ron Montez thanked the City for providing office space to the California Gang and Violence Prevention Service Organization.

CONSENT CALENDAR ITEMS

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

Agenda Item No. 6.1: Received the May and June 2008 Treasurer's Reports

Agenda Item No. 6.2: Approved City Council Meeting Minutes of: a) June 25, 2008 Special Meeting; and b) June 25, 2008 Regular Meeting

Agenda Item No. 6.3: Received report on City Manager approved purchases and contracts authorized by Elk Grove Municipal Code Chapter 3.42 Contracts and Purchasing, filed through August 20, 2008

Agenda Item No. 6.4: **Resolution No. 2008-189** adopted approving an updated parking violation fine and delinquency fee schedule and amending the Fiscal Year 2008-09 Police Department budget in the amount of \$20,000

In answer to Council Member Cooper, Police Chief Simmons reported that the City has qualified Accident Reconstruction Investigators. A consultant is used to verify facts and ensure everything is in order on major cases involving fatalities and collisions before sending them to the District Attorney.

Agenda Item No. 6.5: Received report on Requests for Proposals, Qualifications, and Bids

Agenda Item No. 6.6: **Ordinance No. 31-2008** adopted amending the City of Elk Grove Zoning Map from RD-15 to Shopping Center (SC) Zone District for the Vineyard at Madeira Project (EG-07-123; APNs: 132-0050-074 and 132-0050-075) **(Second Reading)**

Agenda Item No. 6.7: **Ordinance No. 35-2008** adopted amending the City of Elk Grove Zoning Map from General Commercial (GC) and Heavy Industrial (M-2) to Special Planning Area (SPA) for the CMD Court Project (EG-07-050; APNs: 134-0600-014,-016,-029,-031,-032,-034,-040, and -049) **(Second Reading)**

Agenda Item No. 6.8: **Ordinance No. 36-2008** adopted amending the City of Elk Grove Zoning Map for an approximately four acre parcel from Residential- Five (RD-5) Units per Acre to Shopping Center Commercial (SC) for the Reynolds and Brown Plaza III Project (EG-06-1051; APN 125-0030-029) **(Second Reading)**

Agenda Item No. 6.9: **Ordinance No. 37-2008** adopted amending Table 23.24-1 to delete the "General Plan Land Use Designation Implemented by Zoning District" column and making minor text revisions to reflect this change within Zoning Code Chapters 23.24, 23.28, and 23.30 **(Second Reading)**

Agenda Item No. 6.10: Ordinance No. 38-2008 adopted amending Article 1, Section 6.20.030 - *Definitions* and Article 5, Section 6.20.520 - *Owner Liability for Service Charges* of the City of Elk Grove Municipal Code relating to residential solid waste handling service charges **(Second Reading)**

Agenda Item No. 6.11: Ordinance No. 39-2008 adopted amending Subsection B in Section 7.00.040 of the City of Elk Grove Municipal Code adding an alternate position to the Historic Preservation Committee **(Second Reading)**

Agenda Item No. 6.12: Resolution No. 2008-190 adopted authorizing the City Manager to execute a consultant services contract amendment with Quincy Engineering, Inc. for the West Stockton Boulevard at Laguna Creek Bridge Replacement Project extending the termination date to December 31, 2009

Agenda Item No. 6.13: Resolution No. 2008-191 adopted waiving competitive bidding requirements and authorizing the City Manager to execute a contract with NEC Corporation of America for the purchase, installation and maintenance of an NEC Global Latent Workstation in an amount of \$60,041

Agenda Item No. 6.14: Resolution No. 2008-192 adopted approving fees and charges for services provided by the Police Department in accordance with recommendations from Revenue & Cost Specialists, LLC and state limitations

Agenda Item No. 6.15: Resolution No. 2008-193 adopted approving Subdivision No. 03-493.01 Allen Ranch Phase 1 and authorizing the Mayor to execute the Subdivision Improvement Agreement

Agenda Item No. 6.16: Resolution No. 2008-194 adopted approving the submittal of a Functional Classification Change Request for local streets and roads to Caltrans

Agenda Item No. 6.17: Resolution No. 2008-195 adopted accepting the Elk Grove-Florin Road / Campbell Road Intersection Improvements and the Franklin Boulevard / Willard Parkway Intersection Improvements Project as complete and authorizing the City Engineer to prepare, and the City Clerk to file, the Notice of Completion with the Sacramento County Recorder

Agenda Item No. 6.18: Resolution No. 2008-196 adopted authorizing the City Manager to execute the Fiscal Year 2008-09 Measure A Allocation and Expenditure Contract between the City and the Sacramento Transportation Authority

Agenda Item No. 6.19: Resolution No. 2008-197 adopted accepting the Elk Grove Elementary Safety Improvements Project as complete and authorizing the City Engineer to prepare, and the City Clerk to file, the Notice of Completion with the Sacramento County Recorder

Agenda Item No. 6.20: Resolution No. 2008-198 adopted authorizing the City Manager to execute a construction contract with Biondi Paving for the Community Development Block Grant Bus Stop Improvements Project in the amount of \$159,826.90 and authorizing the City Engineer to approve change orders not to exceed the contingency amount of \$23,976.13

Agenda Item No. 6.21: Resolution No. 2008-199 adopted authorizing the City Manager to execute a construction contract with Valley Slurry Seal Company for the Slurry and Chip Seal Project 2008 in the amount of \$551,904 and authorizing the City Engineer to approve change orders not to exceed the contingency amount of \$82,786

Agenda Item No. 6.22: Resolution No. 2008-200 adopted authorizing the City Manager to execute a Contribution Agreement with Caltrans to perform design for the I-5 / Elk Grove Boulevard On-Ramp Project for an amount not to exceed \$60,000

Council Member Scherman thanked Vince Lima for his diligence in working with Caltrans to get this project underway.

Agenda Item No. 6.23: Resolution No. 2008-201 adopted approving the agreement for maintenance of joint transportation facilities between the City of Elk Grove and the County of Sacramento, authorizing the Mayor to execute the agreement and authorizing the City Manager to approve mutually agreed revisions on an annual basis

Agenda Item No. 6.24: Resolution No. 2008-202 adopted authorizing the City Manager to execute a consultant services contract amendment with Quincy Engineering, Inc. for the Sheldon Road / State Route 99 Interchange Reconstruction Project for an amount not to exceed \$378,500 and to extend the termination date to December 31, 2010

PUBLIC HEARINGS

Agenda Item No. 7.1: A public hearing to consider the rezone of approximately 1.12 acres from Travel Commercial (TC) to General Commercial (GC) within the Laguna West community for the Longport Court Rezone Project located at 2301 Longport Court (EG-08-038, APN 119-1990-007)

RECOMMENDATION:

Introduce and waive the full reading, by substitution of title only, an ordinance amending the City of Elk Grove Zoning Map for an approximately 1.12 acre parcel from Travel Commercial (TC) to General Commercial (GC) for the Longport Court Rezone Project.

Mayor Davis declared the public hearing open.

With the aid of an overhead presentation (filed), Kyra O'Malley, Planner, provided an overview of the staff report and recommendation.

Applicant Greg Margetich asked Council to approve the rezone request because it would allow broader uses of the building, which is currently vacant. He stated that approval has been granted from the Laguna West Association.

PUBLIC COMMENT:

None.

Mayor Davis declared the public hearing closed.

Motion: ***M/S Cooper/Scherman*** to introduce and waive the full reading, by substitution of title only, **Ordinance No. 40-2008** amending the City of Elk Grove Zoning Map for an approximately 1.12 acre parcel from Travel Commercial (TC) to General Commercial (GC) for the Longport Court Rezone Project. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

REGULAR AGENDA ACTION ITEMS/RECOMMENDATIONS

Agenda Item No. 8.1: Consider introductions of ordinances and a resolution relating to the enforcement of City ordinances, including administrative citations

RECOMMENDATION:

1. Introduce and waive the full reading, by substitution of title only, an Ordinance repealing and adopting Chapter 1.04 of the Elk Grove Municipal Code relating to enforcement of the Code;
2. Introduce and waive the full reading, by substitution of title only, an Ordinance adding Chapter 1.08 of the Elk Grove Municipal Code relating to Code enforcement;
3. Introduce and waive the full reading, by substitution of title only, an Ordinance amending Chapter 1.11 of the Elk Grove Municipal Code relating to Appeals;
4. Introduce and waive the full reading, by substitution of title only, an Ordinance adding Chapter 1.12 of the Elk Grove Municipal Code relating to administrative citations; and
5. Adopt resolution repealing and replacing fees for Administrative Appeal Hearings.

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

PUBLIC COMMENT:

Pamela and Scott Mendoza expressed concern about allowing a City employee to serve as a hearing officer without specific qualifications.

Ms. Cochran commented that it allows for a wider pool and potentially reduces the cost for the administrative hearing.

Motion #1: M/S Hume/Scherman to introduce and waive the full readings, by substitution of titles only:

- **Ordinance No. 41-2008** repealing and adopting Chapter 1.04 of the Elk Grove Municipal Code relating to enforcement of the Code.
- **Ordinance No. 42-2008** adding Chapter 1.08 of the Elk Grove Municipal Code relating to Code enforcement.
- **Ordinance No. 43-2008** amending Chapter 1.11 of the Elk Grove Municipal Code relating to Appeals.
- **Ordinance No. 44-2008** adding Chapter 1.12 of the Elk Grove Municipal Code relating to administrative citations. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Motion #2: M/S Hume/Scherman to adopt **Resolution No. 2008-203** repealing and replacing fees for Administrative Appeal Hearings. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 8.2: Review draft of response to Grand Jury Report and direct staff regarding further actions

RECOMMENDATION:

Review the draft "Response to the Grand Jury Report," provide direction regarding the City Council's response to the Grand Jury Report and other action deemed appropriate by the City Council regarding matters discussed by the Grand Jury.

Susan Cochran, City Attorney, noted that the Grand Jury report included a provision relating to how the City of Elk Grove Animal Services Department responded to and applied the City's ordinances regarding a potentially dangerous or vicious animal. Ms. Cochran reported that most of the Grand Jury's recommendations have already been implemented. She noted that, although the staff report indicates the animal control ordinance would be considered this evening, it would be brought forward at the September 10 Council meeting instead. The proposed response to the Grand Jury report addresses its concerns.

PUBLIC COMMENT:

Pamela Mendoza stated that she and her husband were the victims of the situation reported to the Grand Jury. Ms. Mendoza reported that the case was repeatedly mishandled after numerous efforts to resolve the situation. When questioning City staff, she and her husband received misinformation, evasive answers, and were lied to. She felt that the City's response to the Grand Jury is too vague, and recommended that very clear regulations be written.

Scott Mendoza emphasized that, whatever regulations the City adopts, they should be strictly followed by staff. He thanked Council Member Cooper for providing assistance to them in this matter.

JoAnne Blazak reported that she had to reinforce her fence to keep the neighbor's dog out of her yard. She complained that Code Enforcement does not return calls nor does it follow up on calls from citizens about animals running loose in neighborhoods.

Mayor Davis apologized for the hardships caused to citizens.

Council Member Scherman suggested that staff meet with affected citizens to review the proposed ordinance prior to Council's consideration to adopt it.

Council Member Cooper noted that, after reviewing Ms. Mendoza's thorough documentation, he was convinced staff did not properly enforce the City's regulations and he emphasized the importance of doing so in the future.

Vice Mayor Hume expressed condolences to Mr. and Mrs. Mendoza for the loss of their pet. He felt the mishandling of the situation was inexcusable.

Council Member Leary recommended that the City reimburse costs to citizens affected by this situation, to which Ms. Mendoza declined the offer.

Motion: M/S Scherman/Leary to approve the response to the Grand Jury Report. The motion passed by the following vote: Ayes: 5; Noes: 0.

Agenda Item No. 8.3: Good Shepherd Church partial impact fee waiver request

RECOMMENDATION:

Consider the request from the Good Shepherd Church, located at 9539 Racquet Court, to waive a portion of the Roadway Fee related to its facility expansion project application.

Rebecca Craig, Finance Director, provided an overview of the staff report and recommendation.

PUBLIC COMMENT:

None.

Vice Mayor Hume noted that the original conditions of approval state that, after the church is built, the existing building should be converted to office and storage areas. He felt that either the request for credit should be granted, or the condition be removed that limits the use of the facility.

Motion: M/S Hume/Cooper to approve the request from the Good Shepherd Church to waive a portion of the Roadway Fee related to its facility expansion project application. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 8.4: Consider a City of Elk Grove Facility Naming Policy

RECOMMENDATION:

Adopt resolution approving City of Elk Grove Facility Naming Policy.

Kara Reddig, Assistant to the City Manager, provided an overview of the staff report and recommendation.

PUBLIC COMMENT:

None.

In answer to Vice Mayor Hume, Ms. Reddig reported that she reviewed 15 other city facility naming policies prior to drafting Elk Grove's.

Motion: M/S Leary/Scherman to adopt **Resolution No. 2008-204** approving City of Elk Grove Facility Naming Policy. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 8.5: Consider transfer of a Swainson's hawk foraging habitat conservation easement, finalize and execute a Monitoring Funding Agreement, and transfer an endowment from the Swainson's Hawk Habitat Fund to The Nature Conservancy in the amount of \$171,099

RECOMMENDATION:

Adopt resolution authorizing the City Manager to:

1. Finalize and execute a Swainson's hawk foraging habitat conservation easement over the City's habitat mitigation property on behalf of The Nature Conservancy;
2. Finalize and execute an Endowment Agreement with The Nature Conservancy for the Swainson's hawk foraging habitat conservation easement; and
3. Transfer \$171,099 from the Swainson's Hawk Habitat Fund to The Nature Conservancy.

With the aid of an overhead presentation (filed), Taro Echiburú, Environmental Manager, provided an overview of the staff report and recommendation. He recalled that, in 2004, the City Council adopted an ordinance requiring land for land mitigation for Swainson's hawk habitat. In 2005, the City purchased 750 acres of land in the south Sacramento area. Vineyards are proposed to be removed from the property. A conservation easement will be transferred to the Nature Conservancy, which will monitor the easement to ensure the preservation goals on the property are maintained in perpetuity. A monitoring endowment will be transferred to the Nature Conservancy. Funds in the endowment will be governed by a monitoring funding agreement.

In reply to Vice Mayor Hume, Mr. Echiburú reported that he would return to Council in September or October with a land management agreement.

PUBLIC COMMENT:

None.

Motion: *M/S Hume/Cooper* to adopt **Resolution No. 2008-205** authorizing the City Manager to: 1) finalize and execute a Swainson's hawk foraging habitat conservation easement over the City's habitat mitigation property on behalf of The Nature Conservancy, 2) finalize and execute an Endowment Agreement with The Nature Conservancy for the Swainson's hawk foraging habitat conservation easement; and 3) transfer \$171,099 from the Swainson's Hawk Habitat Fund to The Nature Conservancy. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 8.6: Appoint a member and delineate the appointments of each member to Historic Preservation Committee

Jessica Shalamunec, Planning Manager, provided an overview of the staff report and recommendation.

RECOMMENDATION:

Adopt resolution appointing Tal Crump to the Historic Preservation Committee and delineate the appointments of each Historic Preservation Committee Member.

PUBLIC COMMENT:

None.

Motion: *M/S Scherman/Hume* to adopt **Resolution No. 2008-206** appointing Tal Crump to the Historic Preservation Committee and delineating the appointments of each Historic Preservation Committee Member as follows:

Old Town Foundation	Tal Crump
Elk Grove Historical Society	Sarah Johnson
Professional	Christopher Erias (Urban Planning)
Professional	Joann Helmich (Archaeology/Cultural Anthropology)
At-Large	Dennis Buscher
At- Large	Thomas Russell
At- Large	Jimmie Johnson
Alternate	Rita Achuff

The motion passed by the following vote: Ayes: 5; Noes: 0.

Agenda Item No. 8.7: Consider introduction of an ordinance adding Elk Grove Municipal Code Chapter 2.12 relating to creation of a Youth Commission

RECOMMENDATION:

Introduce and waive the full reading, by substitution of title only, an ordinance adding Chapter 2.12 creating a Youth Commission.

Jim Miller, Youth Services Manager, provided an overview of the staff report and recommendation. He also reported on the following achievements:

- A \$6,000 technology grant will be used to purchase computers;
- The Youth Services website lists information from 42 nonprofit organizations in Elk Grove;
- A Nonprofit Network Center has been established;
- A City Nonprofit Fair is scheduled for September 13;
- A Youth Master Plan Committee has been formed, as well as three subcommittees; and
- Three community meetings have taken place.

PUBLIC COMMENT:

Davies Ononiwu recalled having brought a youth commission proposal to Council previously. He voiced support for establishing the youth commission and recommended Council for adding the Youth Services Manager position.

Mayor Davis and Vice Mayor Hume thanked Mr. Miller and the Elk Grove Community Connection for bringing the youth commission proposal to fruition.

Motion: *M/S Cooper/Scherman* to amend Section 2.12.020, A. "...At time of appointment each voting member and alternate shall: (1) be no less than thirteen (13) years of age and no more than eighteen (18) years of age;..." and to introduce

and waive the full reading, by substitution of title only, **Ordinance No. 45-2008** adding Chapter 2.12 creating a Youth Commission. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

NOTE: Item 8.8 was pulled from the agenda at staff's request.

~~**Agenda Item No. 8.8:** Consider request for waiver of the policies and procedures for reimbursement of privately constructed public facilities under Reimbursement Agreement RC2004-06 by Norwest Properties, LLC~~

Agenda Item No. 8.9: Consider request for waiver of the policies and procedures for reimbursement of privately constructed public facilities under Reimbursement Agreement RC2006-02 by Reynen & Bardis (Laguna Ridge), LP and Pulte Homes Corporation

RECOMMENDATION:

Consider and provide direction to staff regarding the requested waiver.

Fritz Buchman, City Engineer, reported that Reynen & Bardis and Pulte Homes Corporation entered into a reimbursement agreement covering \$23 million worth of eligible roadway facilities in the Laguna Ridge Specific Plan area. Under the agreement, they have been reimbursed approximately \$8 million. The developer recently submitted a reimbursement request for \$1 million worth of landscaping that covers most of the major roadway corridors within the Laguna Ridge Specific Plan area. Upon review of the reimbursement request staff discovered that, although the improvements had been competitively bid, they had not been publicly bid as required by City policy. The developers are now requesting a waiver of the public bid requirement and staff is seeking direction from Council on whether to grant the reimbursement or a portion thereof.

PUBLIC COMMENT:

None.

Vice Mayor Hume recommended that a low percentage be applied, giving the benefit of the doubt that this was an oversight, and he asked staff to develop a policy to include a punitive penalty for similar situations in the future.

Mayor Davis suggested that a 100% penalty be applied, stating that the Council should insist upon the public process being followed.

Council Member Cooper disagreed, noting that the City has incurred the benefit of the work that has been done, and the developers deserve some compensation.

Council Member Scherman disapproved of the request for waiver.

Motion: M/S Hume/Cooper to apply a penalty of 2% against the reimbursement for improvements that were not delivered in accordance with the City's Policies and Procedures and directing staff to return to Council with a recommendation for a policy revision adding a specific penalty for future such occurrences. ***The motion passed by the following vote: Ayes: 3; Noes: 2 (Davis, Scherman).***

Agenda Item No. 8.10: Consider an impact fee waiver request for second dwelling unit at 10294 Wrangler Drive

RECOMMENDATION:

Consider the request from Brian Underwood, Inc. to waive the Roadway fee related to the construction of a second dwelling unit at 10294 Wrangler Drive.

Susan Cochran, City Attorney, explained that contractor, Brian Underwood, representing property owners of 10294 Wrangler Drive has requested an impact fee waiver related to the construction of a second dwelling unit on the property. Staff has consistently treated the application as a second dwelling unit, which entitled the building to be constructed with a smaller setback than would have been required for an accessory structure. A second dwelling unit is subject to the City's impact fees, including the traffic impact fee. Staff has "red tagged" the structure pending resolution of the payment of these fees.

PUBLIC COMMENT:

Brian Underwood, general contractor, pointed out that the permit states the project is a guesthouse and a garage. The plans were approved as a guesthouse. The project has been under construction for 45 days and \$30,000 has been expended. The original permit has been paid and now staff is requesting an additional \$25,000.

Joe Henderson recalled that plans were submitted to the City as a guesthouse with no stove, and this information is documented on the permit. Mr. Henderson alleged that the City was satisfied with the project until complaints were raised by Morris McMillan and Michael Hardy, who did not want the project built adjacent to them. Staff states that, if the \$25,000 is not paid, the structure will have to be moved 29 feet from the property line. Mr. Henderson felt that he should not bear the cost for the City's mistake.

Michael Hardy stated that he had appealed the City's approval of this project. He claimed that the impact fees mentioned only apply to the second dwelling unit, which Mr. Henderson has not yet applied for. He pointed out that Mr. Henderson has consistently maintained his intent to have a guesthouse and only considered amending his application based on the City's advice to be afforded the favorable setbacks, which would not otherwise be allowed. The City's Zoning Code states that an accessory structure (such as a guesthouse) requires a setback equal to the height of the building. The applicant placed the foundation forms prior to the issuance of a permit. While it is within the applicant's right to incur costs prior to

beginning construction, Mr. Hardy believed a claim stating that it was the City's fault would be a material admission of fact. Mr. Hardy alleged that the owner's delays are the result of a civil issue relating to Covenants, Conditions, and Restrictions which do not allow second dwellings in the community. He asked Council, if it determines to make a finding at this time, that it concludes if the applicant desires to be afforded the favorable setbacks of a second dwelling unit, he should be responsible for all the impact fees associated with it.

Council acknowledged that the situation was caused by staff's error; additionally, the project would not impact traffic, so charging a roadway impact fee seemed unjustified. Council expressed a desire for staff to draft a policy specific to agricultural residential areas and define "cooking facilities" to include a gas line or standard electrical system sufficient to support a conventional stove.

Motion: M/S Leary/Scherman to approve the request to waive the Roadway fee related to the construction of a second dwelling unit at 10294 Wrangler Drive. *The motion passed by the following vote: Ayes: 5; Noes: 0.*

Agenda Item No. 8.11: Consider an Economic Incentive Agreement with Reynolds & Brown

RECOMMENDATION:

Review and, if appropriate, authorize the City Manager to execute an Economic Incentive Agreement with Elk Grove III Partners, LLC for the Reynolds & Brown Plaza III Project.

Heather Ross, Management Analyst, recalled that, on July 23, Council approved the Reynolds and Brown Plaza III project, which included a 98-room hotel and 30,000 square feet of retail. During the July 23 meeting, the developer's representative asked that Council consider an economic incentive agreement for the project. The proposed agreement would allow the City to rebate the project at a sum equal to 50% of the Transient Occupancy Tax generated by the project in its first ten years of operation and 33% during the next five years.

PUBLIC COMMENT:

Katherine Maestas asked Council if an economic incentive, i.e. a living wage, would be provided for employees working at this hotel.

In answer to Mayor Davis, the project applicant reported that the hotel would offer 25 to 30 full time positions.

Motion: M/S Leary/Scherman to adopt Resolution No. 2008-207 authorizing the City Manager to execute an "Economic Incentive Agreement" with Elk Grove III Partners, LLC regarding the Reynolds & Brown Plaza III Project (EG-06-1051; APN 125-0030-029). *The motion passed by the following vote: Ayes: 5; Noes: 0.*

Agenda Item No. 8.12: Consider appointment to Charter Commission

RECOMMENDATION:

Consider and provide direction to staff regarding the requested waiver.

Susan Blackston, City Clerk, provided an overview of the staff report and recommendation.

PUBLIC COMMENT:

None.

Mayor Davis recommended that Damon Mireski be appointed to the Charter Commission, as he has been attending its meetings and would not require the "learning curve" as would others who were unfamiliar with the Commission.

Motion: *M/S Scherman/Leary* to adopt **Resolution No. 2008-208** appointing Jacob Rambo to the Charter Commission. ***The motion passed by the following vote: Ayes: 4; Noes: 1 (Davis).***

NOTE: Council Member Leary left at 8:38 p.m.

GENERAL ADMINISTRATION INFORMATION

City Manager Laura Gill reviewed the August 27 Administrative Report (filed).

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 Scherman reported that, today, she attended a budget workshop for the Sacramento Regional County Sanitation District. She serves on the Sacramento Public Library Authority Board of Directors Grand Jury response Committee and the Audit and Finance Committee. The Library Director's evaluation will be conducted on August 28. She attended the Old Town Elk Grove Foundation's meeting yesterday. The Foundation wants representatives of Public Works and Planning to attend their September 30 meeting in order to answer questions about project permitting. Three weeks ago she gave a tour of District 5 to City Manager Gill. Ms. Gill informed her that some areas might qualify for redevelopment and said that she would look into the matter.

In answer to Council Member Scherman, Police Chief Simmons stated that he has discussed Section 8 problems with the City Manager and the matter is being resolved.

Council Member Cooper attended the Sacramento Area Council of Governments meeting on August 21.

Vice Mayor Hume commented that he will attend the Sacramento Transportation Authority board meeting tomorrow. Procedures are being put in place that may allow cities to get additional Measure A funding. The Elk Grove – Rancho Cordova – El Dorado Connector Summit on August 19 was well attended. The Connector has recently been named, “Capital Southeast Connector”. Referencing the Sphere of Influence application, Mr. Hume stated that it is being rumored that he is trying to seek land in the floodplain for development. Mr. Hume asserted that this has never been his intention. Rather, he wishes to keep the area in the floodplain included in the application to ensure the entire area is comprehensively studied. He offered the following suggestions for the area:

- A zero grid community where a majority of power is derived from nontraditional sources;
- Construction of wetlands where runoff is stopped and allowed to be filtered out naturally and, in turn, create a habitat;
- Construct a runoff recapture system that allows rainwater to be used for irrigation; or
- Install a groundwater recharge system so that river overflow can be retained and percolated back into the groundwater supply.

Mr. Hume reported that he was invited to meet with the Mayor and Vice Mayor of Galt to discuss the potential of reviving the greenbelt agreement between Elk Grove and Galt. At the meeting there was support to develop an agreement between Galt, Elk Grove, and the County of Sacramento stipulating that no small parcel subdivision would occur from the Cosumnes River to Arno Road and that the area would remain as agriculture and habitat land. Mr. Hume commented that he would consider moving the line back to the flood plain. He believed there was potential for low impact amenities in the area that would not necessarily be on the other side of the river, and he would be in favor of discussing the matter. The City of Anaheim recently touted a “groundbreaking” decision to eliminate its defined benefit plan and move to a defined contribution plan; however, Mr. Hume pointed out that the City of Elk Grove did so a year ago.

In reply to Vice Mayor Hume’s inquiry, City Manager Gill stated that the letter in support of Senate Bill 375 was handled on the staff level and signed by the Mayor.

Mayor Davis reported that, at the Sacramento Metropolitan Air Quality Management District Board of Directors meeting, a discussion took place about a vapor recovery program for gas stations and the agriculture compression engine registration fee program. He attended a follow up meeting to the Forum held with the Mayors of Galt, Lodi, and Elk Grove, at which it was discussed whether a vision could be created for the Highway 99 corridor as it relates to transportation. A tour of available Elk Grove office sites recently took place with the Sacramento Department

of General Services real estate team, the Executive Director of the Economic Development Corporation, business partners, and City staff. It is hoped that Elk Grove will be considered a location for State offices, bringing more jobs into the community and decreasing residents' commutes. In reference to the Sphere of Influence (SOI) application, Mayor Davis stated that he has been in communication with the Mayor of Galt and concerned citizens from Wilton. He expressed support for Vice Mayor Hume's suggestion regarding development of an agreement for a permanent greenbelt. He favored placing the land in a preserve. He believed that additional discussion needs to take place regarding the SOI application. In addition, he felt there should be substantive discussions about the vision for the Cosumnes River.


Council Member Cooper emphasized that there is no consideration being made of developing the Wilton area; however, he did support keeping Wilton in the SOI application.

ADJOURNMENT

With no additional business to conduct, the August 27, 2008 City Council meeting was adjourned in memory of Steven Wright at 9:09 p.m.


SUSAN J. BLACKSTON,
CITY CLERK

ATTEST:


GARY DAVIS, MAYOR