

MINUTES OF THE CITY COUNCIL
REGULAR MEETING
Wednesday, January 28, 2009

CALL TO ORDER/ROLL CALL

Mayor Hume called the regular City Council meeting of January 28, 2009 to order at 6:25 p.m.

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

Absent: None.

Council Member Davis led the Pledge of Allegiance.

Mayor Hume asked that a moment of silence be observed.

APPROVAL OF AGENDA

Motion: M/S Davis/Scherman to remove Items 8.6 and 8.7 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

- 4.1 With the aid of an overhead presentation (filed), Stuart Somach explained that his role regarding the South Sacramento Habitat Conservation Plan was to facilitate meetings and lead negotiations with various State and Federal agencies. He mentioned that the Habitat Conservation Plan (HCP) has been under development for ten years. The HCP will be used to streamline State and Federal permitting processes associated with development, define mitigation obligations, allow for regional conservation strategies, and provide a predictable regulatory framework. The HCP will also allow the Freeport Water Project to move forward, as well as sewer service needs and other public and private development within the area. No zoning changes are anticipated. A preliminary draft of the HCP is anticipated by April 2009, a draft environmental impact report and implementation agreement by September 2009, completion by June 2010, and adoption by January 2011.

In answer to inquiries posed by Mayor Hume and Council Member Davis, Assistant City Manager Patrick Blacklock clarified that the HCP will anticipate the City's proposed Sphere of Influence (SOI), as it is known today, and analyze impacts so that only a minor amendment would be necessary in the future

Council Member Davis pointed out that the City has brought forward its plan and provided technical and biological data; therefore, the SOI matter should be addressed in advance without the need for an amendment later.

- 4.2 With the aid of an overhead presentation (filed), Keith DeVore, Sacramento County Municipal Services Agency Deputy Administrator, provided an update regarding the Delta Vision Project, created to transport water supplies to southern California. Mr. DeVore warned that the project would have impacts to people in, and upstream, of the Delta. He noted that there has been little participation by effected landowners or local government in the process. The Bay Delta Conservation Plan (associated with the Delta Vision Project) is the multi-species habitat conservation plan for the Delta. It involves converting 100,000 acres of agricultural lands to wetlands. One of the alternatives is a 1,000 foot wide canal with a pumping capacity of 15,000 cubic feet per second, which would pump water during wet years. Concerns have been raised about abandoning the Delta if the canal goes around it, in addition to impacts to the Sacramento Regional Sanitation District and Freeport Water Authority operations. The increased level of treatment necessary to deal with discharges would cost \$1 billion dollars and double or triple the sanitation rates. Water purveyors have said they would pay the cost of building the canal (estimated at \$4 to 7 billion); however, they believe restoration of the wetlands (estimated at \$12 to 24 billion) should be paid for statewide.

PUBLIC COMMENT

Eli Rodriguez, owner of Byers Gymnastics Center, stated that he was quoted \$160,000 in City fees for a \$300,000 tenant improvement project. He asked Council to direct staff to reconsider how it classifies gymnastic businesses.

Heather Ross, Management Analyst, reported that staff is currently working on creating an alternative rate for the gymnastic use.

Newton Ekpo expressed appreciation to Council Members and announced that he hoped to give a presentation in April at the library regarding the Fathers and Families Resource Center.

CONSENT CALENDAR ITEMS

In reference to Item 6.1, Mayor Hume noted that there was a \$9 million difference in the summary of cash and invested funds report between August and September 2008. He asked if the interest rates were static, to which Finance Director Rebecca Craig answered in the affirmative, explaining that the money is guaranteed as long as the City holds the securities until maturity.

In reference to Item 6.9, Council Member Cooper recommended, as a cost saving measure, that the Police Department consider replacing vehicles at 100,000 miles (rather than 80,000) and changing the oil every 5,000 miles (rather than 3,000).

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

Agenda Item No. 6.1: Received August and September 2008 Treasurer's Reports

Agenda Item No. 6.2: Approved City Council Special Meeting Minutes of: a) January 7, 2009; b) January 14, 2009 (2:00 p.m.); and c) January 14, 2009 (5:00 p.m.)

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 January 21, 2009

Agenda Item No. 6.4: Received report on Requests for Proposals, Qualifications, and Bids

Agenda Item No. 6.5: Adopted **Ordinance No. 1-2009** adding Elk Grove Municipal Code Chapter 16.96 to establish development impact fees for Measure A transportation improvements for Citywide Benefit District (**Second Reading**)

Agenda Item No. 6.6: Adopted **Ordinance No. 2-2009** amending Elk Grove Municipal Code Section 3.42.250 to authorize City Officers to prequalify bidders for Maintenance Services Contracts (**Second Reading**)

Agenda Item No. 6.7: Adopted **Ordinance No. 3-2009** repealing Ordinance No. 29-2006 and adding Elk Grove Municipal Code Chapter 9.20 regulating sex offenders' proximity to children's facilities (**Second Reading**)

Agenda Item No. 6.8: Accepted the Comprehensive Annual Financial Report and Single Audit for Fiscal Year ending June 30, 2008

Agenda Item No. 6.9: Resolution No. 2009-18 adopted authorizing the City Manager to waive competitive bidding and execute an agreement with Hoblit Motors for the purchase of ten Ford Crown Victoria police patrol vehicles in an amount not to exceed \$248,000

Agenda Item No. 6.10: Resolution No. 2009-19 adopted authorizing the Transit System Manager to execute a transfer agreement between the City and the California Department of Transportation (Caltrans), Capitol Corridor Joint Powers Authority, and the National Railroad Passenger Corporation (AMTRAK)

Agenda Item No. 6.11: Resolution No. 2009-20 adopted authorizing the amendment and restatement of the retirement plan via adoption of Valic Governmental Volume Submitter Plan

Agenda Item No. 6.12: Resolution No. 2009-21 adopted authorizing the City Manager to execute a consultant contract amendment with Vali Cooper & Associates, Inc. for the Grant Line Road / State Route 99 Interchange Reconstruction Project in an amount not to exceed \$153,000

Agenda Item No. 6.13: Resolution No. 2009-22 adopted approving abandonment of a portion of Crowell Drive adjacent to Elk Grove Elementary School

PUBLIC HEARINGS

Agenda Item No. 7.1: A public hearing to receive public input regarding the City's Fiscal Year 2009-10 budget

RECOMMENDATION:

Receive public input regarding the City's Fiscal Year 2009-10 budget (July 1, 2009 – June 30, 2010).

Mayor Hume declared the public hearing open.

Rebecca Craig, Finance Director, provided an overview of the staff report and explained that the City is soliciting public input on budget priorities and where they feel money should be allocated in the 2009-10 budget.

PUBLIC COMMENT:

None.

Mayor Hume declared the public hearing closed.

NOTE: No action was taken on Item 7.1.

REGULAR AGENDA ACTION ITEMS/RECOMMENDATIONS

Agenda Item No. 8.1: Swainson's Hawk Ordinance Amendment Study Session

RECOMMENDATION:

Receive presentation on the Swainson's Hawk Ordinance Amendment and provide direction as deemed appropriate

With the aid of an overhead presentation (filed), Taro Echiburú, Environmental Planning Manager, provided an overview of the staff report and recommendation. He recalled that, in January 2008, Council directed staff to consider options to amend the City's existing Swainson's Hawk ordinance with a goal of addressing expensive mitigation and mirror Sacramento County's ordinance, which was implemented in 2006. A census level nesting survey was conducted during the 2008 hawk nesting season. Staff developed a mitigation approach based on distance from known hawk nests. It is proposed that mitigation be reduced on a .25 ratio for every half mile increased distance from the nest; any property beyond two miles would be at a .25 ratio. Projects having suitable habitat located between zero and half a mile from an active nest would require a one to one mitigation ratio.

In answer to Council Member Davis, Mr. Echiburú believed staff's proposal to be more aggressive than Sacramento County's ordinance because it is based on zoning, rather than on the land itself. There is no Swainson's Hawk mitigation in Sacramento County for lands zoned AR-5 and denser.

In reply to Council Member Detrick, Mr. Echiburú reported that Swainson's Hawks forage up to ten miles from their nest.

PUBLIC COMMENT:

Bette and Gene Robinson stated that they began a project on property east of Bader Road two years ago and have made little progress, due to environmental studies and having been assigned to nearly ten different planners, each time having to begin anew. There are no irrigated pastures within five to ten miles of their project. They voiced concern about the high cost of Swainson's Hawk mitigation fees.

Jake Allen agreed that land should be mitigated where the Swainson's Hawk is most prevalent. He reported that the hawks forage up to 18 miles from their nests. Additionally, he stated that the hawks are migratory birds, sometimes traveling as far as Mexico and South America where they are shot as nuisance birds.

Judith Lamare, representing Friends of the Swainson's Hawk, stated that the proposal to decrease the amount of mitigation based on distance from nests is not a biologically defensible policy. She noted that the City would need to conduct California Environmental Quality Act studies if its current ordinance is amended.

In reply to Mayor Hume, Ms. Lamare explained that the revised Sacramento County ordinance was supported by the Department of Fish and Game. The County ordinance applies only to projects under 40 acres and its purpose was to give relief to parcels that were within already urbanized areas or surrounded by urbanization that remains in rural use.

Teri Lawrence stated that she has a project on Bader Road. She spoke in favor of staff's proposal and asked that the mitigation fees also take into consideration the fact that the price of real estate has declined.

Following discussion, Council concurred to direct staff to move forward with the amendment proposal and look into expanding the receiving area.

Agenda Item No. 8.2: Review commercial solid waste hauling permit system and consider an exclusive franchise service agreement

RECOMMENDATION:

Receive information regarding exclusive vs. non-exclusive service arrangements for commercial refuse collection services in the City of Elk Grove and provide direction as deemed appropriate.

With the aid of an overhead presentation (filed), Cedar Kehoe, Integrated Waste Program Manager, provided an overview of the staff report and recommendation. She recalled that, five years ago, the City issued a letter to commercial haulers servicing the region notifying them that the City intended to consider exclusive hauler arrangements; that five year period has now lapsed. Today, Elk Grove has 13 haulers. The revenue in 2008 totaled \$5 million and, of that, the hauler fees amount to \$800,000. These fees are used exclusively to implement required solid waste management programs as required by the Integrated Waste Management Board. Permitted haulers were asked to provide their fee schedules, but declined to do so. Staff held three public meetings in January to discuss this issue and the following comments were offered:

- Costs are several times higher in cities with exclusive arrangements;
- If the system is not broken, why fix it;
- It would be bad for business during a time of recession;
- Competition keeps rates lower;
- Haulers are upgrading their trucks to meet State trash truck emission mandates;
- Trash trucks make up a small portion of the total traffic in Elk Grove;
- Keep non-exclusive service and change the franchising agreement to address certain issues.

Ms. Kehoe noted that a "green sheet" letter dated January 28, 2009 from the Sacramento Metropolitan Air Quality Management District was distributed to Council (filed).

In answer to Council inquiries, Ms. Kehoe explained that, both options can support future solid waste development plans, such as a transfer station. She stated that if the City wanted to have greater flow control for its trash, an exclusive hauler would be superior. Other advantages include getting new trucks, which would lower emissions and auditing and reporting of State mandated diversion goals would be more feasible. A Request for Proposals (RFP) is estimated to cost \$100,000.

Council Member Davis asked whether funds now being considered for an RFP could be used for a program to incentivize improvements of trucks under a non-exclusive franchise, to which Finance Director Craig answered in the affirmative.

In reply to Council Member Detrick, Deputy City Manager Tubbs explained that, if approved, a team consisting of himself, Ms. Kehoe, and an outside consultant would develop the RFP.

PUBLIC COMMENT:

Constance Conley spoke in opposition to the proposal, stating that it would create a monopoly, which would harm consumers.

Gregg Mason representing Jackson Properties stated that he and many other large landlords have common area dumpsters and handle the service. He reported that El Dorado Hills has an exclusive agreement and he pays \$540 a month, whereas the same service in Sacramento costs \$188 a month. He urged Council to leave the system as is.

Monty Stanley noted that he was a private hauler and owner of a ready-mix supplier. He stated that rates are 40% higher in cities with exclusive hauler agreements. He noted that a Federal mandate requires all trucks after 2007 to have catalytic converter particulate traps. He urged Council not to expend \$100,000 on an RFP.

Janet Toppenberg, Elk Grove Chamber of Commerce Executive Director, spoke in opposition to the proposal, as it is contrary to the free enterprise system. The current non-exclusive system encourages haulers to provide the best service they can at the best price. If the competitive factor is removed, prices will increase. She also believed an exclusive agreement would result in job losses.

Mayor Hume was opposed to conducting a RFP. He suggested staff work on creating certain efficiencies and higher goals within a multi-user franchise agreement.

Council Member Cooper pointed out that 76% of waste is commercially generated. In December, the Air Resources Board adopted mandatory commercial recycling policies as presented by the California Integrated Waste Management Board. Senate Bill 25 currently mandates an increase from 50% recycling to 60% and in the future it will increase to 75%. The diversion rate could be increased through an exclusive service arrangement. He strongly supported the recommendation to conduct a RFP.

Council Member Davis believed the City should provide every competitive advantage possible to businesses in the community. He favored a non-exclusive franchise.

Vice Mayor Scherman and Council Member Detrick voiced agreement with Mr. Davis' position.

Mr. Tubbs clarified that Council's direction to staff was to use existing internal resources to proceed with outreach to the hauler and business community to craft a non-exclusive franchise framework that addresses as many of the policy objectives as possible and bring the matter back to Council for consideration later this year.

Agenda Item No. 8.3: Status Update on Implementation of the Development Services Assessment Report

RECOMMENDATION:

Review and discuss the status of the Sinclair & Associates Development Services System Assessment Report implementation plan.

Patrick Blacklock, Assistant City Manager, provided an overview of the staff report.

Following discussion, Council concurred with staff's recommendation to extend the date to complete a hybrid (contract) organizational model from July 1, 2009 to October 1, 2009, with a City Manager option to extend it for an additional three months if needed.

PUBLIC COMMENT:

None.

Motion: M/S Scherman/Davis to waive rule of procedure not to consider new business after 10:00 p.m. and to proceed with the remainder of the agenda. The motion passed by the following vote: Ayes: 5; Noes: 0.

Agenda Item No. 8.4: Consider approving Federal Fiscal Year 2009-10 earmark funding requests

RECOMMENDATION:

Adopt resolution approving the Federal Fiscal Year 2010 funding requests.

With the aid of an overhead presentation (filed), Kara Reddig, Assistant to the City Manager, provided an overview of the staff report and recommendation.

PUBLIC COMMENT:

None.

Council Member Davis asked staff to review the stimulus package and consider projects beyond the transportation category and, in particular, any "shovel ready" projects that would create jobs.

Motion: M/S Cooper/Scherman to adopt **Resolution No. 2009-23** approving the Federal Fiscal Year 2010 funding requests. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 8.5: Schedule Special City Council meetings for two workshops

RECOMMENDATION:

Schedule Special City Council meetings for two workshops: 1) Citywide Impact Fee Program, and 2) Civic Center

Laura Gill, City Manager, provided an overview of the staff report.

PUBLIC COMMENT:

None.

Following discussion, Council concurred to schedule a Special City Council meeting on February 11, 2009 at 3:00 p.m. to consider the Citywide Impact Fee Program and to consider the Civic Center item at the regularly scheduled meeting of February 25, 2009.

NOTE: Item 8.6 was removed from the agenda.

~~**Agenda Item No. 8.6:** Review Council appointments to regional boards, commissions, and committees~~

NOTE: Item 8.7 was removed from the agenda.

~~**Agenda Item No. 8.7:** Discuss Status of Charter Efforts~~

GENERAL ADMINISTRATION INFORMATION

City Manager Laura Gill reviewed the January 28, 2009 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 Cooper attended the Sacramento Tree Foundation Greenprint Regional Steering Committee meeting today. It is hoped that 5 million more trees will be planted by 2025. There is \$700,000 in the tree preservation fund, of which Elk Grove's share is \$15,000. The Foundation is offering the following training opportunities: 1) Leading Education and Awareness in Urban Forestry, and 2) Youth Tree Care Technicians Certification. He asked that an Arbor Day Proclamation be presented at the regularly scheduled meeting of February 11.

Council Member Davis thanked Fritz Buchman for serving as Interim Public Works Director. Mr. Davis made the following comments:

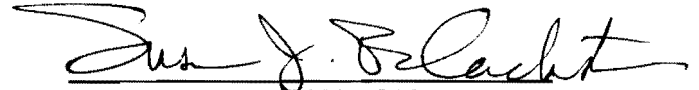
- He was asked to serve on the League of California Cities Housing and Community Economic Development Policy Committee;
- He was appointed by the State Board of Education to serve on the Advisory Commission on Charter Schools;
- He and other community leaders are in the process of organizing the Elk Grove Youth Sports Foundation, which has a goal of providing scholarships to underprivileged students who cannot afford youth sports fees;
- At the invitation of United States Senator Dianne Feinstein, he attended the presidential inauguration on January 20.

Council Member Scherman reported that the Interim Library Director has identified 302 issues that need to be addressed. She attended the Sacramento Regional County Sanitation District Board of Directors meeting today, which discussed raising fees through a Proposition 218 vote.

Mayor Hume reported that the Mobility Advisory Council gave a presentation at the Regional Transit Board meeting. He noted that Regional Transit has a 24.7% fare box recovery, which does not include paratransit. New representatives from Folsom and El Dorado County were welcomed at the last Capital Southeast Connector Joint Powers Authority (JPA) Board of Directors meeting. A presentation on Elk Grove specific segments is scheduled for the next JPA Board meeting. He asked that tonight's meeting be adjourned in memory of Police Lt. Art Olsen's father, as well as Ben Underwood who passed away on January 19, an inspirational 16 year old blind youth who remained mobile and active through the use of echo-location.

ADJOURNMENT

With no additional business to conduct, the January 28, 2009 City Council meeting was adjourned at 10:36 p.m. in memory of Ben Underwood and Arthur R. Olsen.



SUSAN J. BLACKSTON,
CITY CLERK

ATTEST:



PATRICK HUME, MAYOR