

**MINUTES OF THE CITY COUNCIL
REGULAR MEETING
Wednesday, February 25, 2009**

CALL TO ORDER/ROLL CALL

Mayor Hume called the Regular City Council meeting of February 25, 2009 to order at 6:10 p.m.

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

Absent: Council Member Cooper (arrived at 6:22 p.m.)

Vice Mayor Scherman led the Pledge of Allegiance.

Mayor Hume asked that a moment of silence be observed.

APPROVAL OF AGENDA

Motion: M/S Scherman/Davis to approve the agenda as presented. ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Cooper)***

CLOSED SESSION

None.

PRESENTATIONS/ANNOUNCEMENTS

4.1 Mayor Hume presented a Certificate of Recognition to Roy, Mary, and David Herburger in honor of the 100th Anniversary of the *Elk Grove Citizen* newspaper.

PUBLIC COMMENT

Peter Gaffney identified himself as a Glenbrooke Del Webb community resident. He expressed concern with the proposed Wal-Mart store in the Vineyard at Madeira Shopping Center and believed that an enforceable agreement limiting store hours was needed. Additionally, he suggested that security be increased by retaining off-duty police officers and rented patrol cars to provide an armed presence in the parking lot. He noted that the Planning Commission had considered a Target store for this site, not Wal-Mart. He pointed out that authority to restrict hours of operation is contained in the Elk Grove Municipal Code.

Joan Masterson stated that she was a Glenbrooke Del Webb community resident. She felt that the location of Bruceville Road and Whitelock Parkway was inappropriate for the proposed Wal-Mart store. She voiced concern about noise, traffic, increased crime, and illuminated signs shining into her home and yard late into the night. She preferred that the store close at 10:00 p.m., rather than midnight.

Note: Council Member Cooper arrived at 6:22 p.m.

Lloyd Kearns, a Glenbrooke Del Webb resident, stated that he had no concerns about the proposed Wal-Mart as long as there was adequate security, the property was kept clean, and it is not operated 24 hours a day. He did, however, express concern about increased crime likely to occur from the soon to be completed Montego Falls 132 unit low-income multi-family apartment building across the street from the Glenbrooke community. He felt that senior communities and low-income apartments should not be constructed adjacent to one another.

Mary Weatherill, a Glenbrooke Del Webb resident, believed that the proposed Wal-Mart store would bring increased traffic, lighting, noise, and crime to the area, particularly if it is allowed to operate 24 hours a day. She reported that, on February 23, she went to the current Wal-Mart store between the hours of 11:00 p.m. and 12:00 a.m. and found that approximately ten cars enter and exit every 15 minutes and there were 83 cars in the parking lot at midnight. She felt that the hours of 6:00 a.m. to 12:00 a.m. would be reasonable.

Steve Lee expressed his opinion that the current City Council is the best the City has had since its inception. He asked Council to keep the public informed of its negotiations with Wal-Mart. He recommended that an ordinance be adopted requiring developers to place signs on property as soon as they apply for building permits explaining what will be built and who to contact for questions.

Amy Cochran encouraged the Council and citizens to support Girl Scouts by purchasing cookies, which is an annual fundraiser.

CONSENT CALENDAR ITEMS

Mayor Hume asked for clarification regarding Item 6.6, to which Transit Manager Tiffany Fink explained that the proposed policy would remove the requirement to publish a notice in the City newsletter and adds a requirement to have at least one public meeting prior to Council consideration of a fare increase or service decrease.

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

Agenda Item No. 6.1: Received October, November, and December 2008 Treasurer's Reports

Agenda Item No. 6.2: Approved City Council Minutes of: a) January 28, 2009 Special Meeting; b) January 28, 2009 Regular Meeting; c) February 4, 2009 Special Meeting, and d) February 18, 2009 Special 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 February 18, 2009

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

Agenda Item No. 6.5: **Resolution No. 2009-39** adopted establishing policy for the retention of records maintained by the Finance Department

Agenda Item No. 6.6: **Resolution No. 2009-40** adopted amending policy to solicit and consider public comment prior to a fare increase, fare decrease, or a major service reduction

Agenda Item No. 6.7: **Resolution No. 2009-41** adopted accepting the public improvements for Laguna Ridge Specific Plan – Whitelock Parkway – Segment 1

Agenda Item No. 6.8: **Resolution No. 2009-42** adopted increasing the City Engineer's authority to execute change orders for the Compressed Natural Gas Fuel System Project from \$26,502 to \$33,502

Agenda Item No. 6.9: **Resolution No. 2009-43** adopted declaring intention to annex territory to Community Facilities District No. 2006-1 (Maintenance Services) and to levy a special tax to pay for Maintenance Services (Annexation No. 12)

Agenda Item No. 6.10: **Resolution No. 2009-44** adopted declaring intention to levy street maintenance assessments for certain properties located in the Eastern Area which represents Annexation No. 12 into the Street Maintenance Assessment District No. 1, Zone 3 and create a subset of Zone 3 titled Street Maintenance District No. 1, Zone 3-A

PUBLIC HEARINGS

Agenda Item No. 7.1: A public hearing to consider a General Plan Amendment, Rezone, Tentative Parcel Map, Conditional Use Permit, Variance, Design Review, and Uniform Sign Program for the Shops at Calvine project located at 8434 Bradshaw Road (EG-08-018; APN: 121-0190-009)

PLANNING COMMISSION RECOMMENDATION:

1. Introduce and waive the full reading, by substitution of title only, an Ordinance amending the City of Elk Grove Zoning Map from Agricultural Residential-5 acre minimum (AR-5) to General Commercial (GC) for the Shops at Calvine Project; and
2. Adopt resolution approving a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Tentative Parcel Map, Conditional Use Permit, Variance, Design Review and Uniform Sign Program for Shops at Calvine project (EG-08-018), subject to the Findings and Conditions of Approval.

With the aid of an overhead presentation (filed), Gerald Park, Senior Planner, provided an overview of the staff report and recommendation. He explained that the General Plan amendment for this project was included in Item 7.2.

In answer to Council Member Detrick, Planning Director Don Hazen confirmed that the Planning Commission did not see the need to regulate the hours of operation for the CVS pharmacy; however, the drive-through hours are conditioned to be 8:00 a.m. to 10:00 p.m.

In reply to Council Member Davis, Mr. Hazen explained that the Planning Commission did not believe there would be any negative visual impact to allowing signs with both internally illuminated channel lighting and opaque-faced halo lighting.

Vice Mayor Scherman suggested that the drive-through hours be extended to 11:00 p.m. to which Council Member Cooper agreed, and Council Member Davis recommended 12:00 a.m.

In answer to questions posed by Mayor Hume, Mr. Park explained that the applicant is proposing pervious concrete because the drainage facilities are at capacity. The applicant agreed to a metal seam roof at the recommendation of Planning Commissioner George Murphey who believed it would better represent characteristics of the rural area. The monument signs will be translucent.

Mayor Hume declared the public hearing open.

William McDermott of Armstrong Development Properties and applicant for the Shops and Calvine and CVS Pharmacy project reported that, on May 23, 2008, every homeowner and tenant within 1,000 feet of the property was invited to an open house. He stated that 25 people attended, most of who strongly supported the project. One neighbor expressed concern about potential impact retail development would have on her child's school. Mr. McDermott noted that Armstrong Development Properties is the second developer to attempt to develop the property as a commercial parcel. The location of the Pacific Gas and Electric transmission easement that bisects the property is 75 feet wide, and given the

existing Rock Church on the south side, it creates a very small developable area on the corner and at the rear of the parcel. The County has a 60 inch storm drain line that runs down Calvine Road to the west, which is at or near capacity. For this reason, pervious concrete was decided upon, which will allow for a ten year, two hour event to drain without flooding issues. Mr. McDermott confirmed that no water would impact the County system. The Planning Commission stipulated a yearly maintenance review of the pervious concrete. Armstrong Development has no objections to the 72 conditions set forth by staff; however, he requested that Council consider revising two conditions recommended by the Planning Commission: 1) he requested that the pharmacy drive-through hours not be limited and the condition be amended to allow 24 hour operation if needed; and 2) he requested that Council amend the signage stipulation to allow internally illuminated standard lighting for five ancillary signs that face the public right-of-way at Calvine and Bradshaw Roads. Mr. McDermott distributed photos of the signage (filed). He explained that halo illumination dampens the visibility to the point that the signs would be illegible. CVS pharmacy would like to operate from 7:00 a.m. to 10:00 p.m. initially and maintain the ability in the future to operate 24 hours if demand warranted it. He reported that the average pharmacy, in peak hours, generates ten vehicles in the drive-through. For noise reduction, the outside lane could be closed during extended hours of operation.

Mr. McDermott reported that the residential property owner on the west side asked that the block wall on the common property line be increased from six to eight feet in height. Mr. McDermott agreed to add it as a condition of project approval. Further, he noted that a 14 foot variance has been provided, as well as an entire perimeter wall and landscaping on both frontages as part of the first phase of development for the CVS pharmacy.

In answer to Council Member Davis, Mr. McDermott reported that a liquor license will be pursued. After normal hours of sales, the alcoholic beverages will be secured.

PUBLIC COMMENT:

The following individuals voiced support for the project citing convenience and quality design: 1) Craig Goodman, 2) Davis Hufstedler, 3) Doug Salters, 4) Theron Roschen, 5) Chad Adair, and 6) Harold Sargent.

Mayor Hume declared the public hearing closed.

Council Member Detrick preferred a midnight restriction on hours of operation for both the store and the drive-through, to which Vice Mayor Scherman and Council Member Davis expressed agreement.

In response to Vice Mayor Scherman, Planning Director Don Hazen acknowledged that fence height is normally six feet; however, vines and vegetation could soften the appearance of an eight foot stucco fence. Ms. Shalamunec confirmed that the applicant is required (in the conditions) to provide ivy on the wall.

Mr. Hazen explained that, unless there are significant public complaints about noise or nuisance, the Planning Director has authority to grant permanent status to hours of operation for the drive-through as designated by Council. Hours of operation for the store do not require a Conditional Use Permit.

Council Member Davis preferred that the sale of alcohol be limited to 11:00 p.m., to which City Attorney Cochran advised that the Alcoholic Beverage Control (ABC) Board has exclusive jurisdiction regarding the sale of alcoholic beverages. She did not believe that the City could impose different restrictions than those of the ABC.

Mayor Hume and Council Members Davis and Cooper voiced support for the applicant's request to allow internally illuminated lighting on the five ancillary signs.

Motion #1: M/S Davis/Scherman to introduce and waive the full reading, by substitution of title only, **Ordinance No. 4-2009** amending the City of Elk Grove Zoning Map from Agricultural Residential-5 acre minimum (AR-5) to General Commercial (GC) for the Shops at Calvine Project. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Motion #2: M/S Davis/Scherman to adopt **Resolution No. 2009-45** approving a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Tentative Parcel Map, Conditional Use Permit, Variance, Design Review and Uniform Sign Program for Shops at Calvine project (EG-08-018), subject to the Findings and Conditions of Approval with the elimination of Condition 5 (*i.e. The hours of operations for the drive-through facility associated with the DVS Building shall be limited from 8:00 a.m. to 10:00 p.m.*); allowing internally illuminated standard (channel) lighting on three main building signs; and to increase the height of the block wall from 6 feet to 8 feet. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 7.2: A public hearing to consider the Sheldon Road / State Route 99 General Plan Amendment (GPA), Shops at Calvine Project GPA, Calvine / 99 Special Planning Area Amendment, and Rezone Project

PLANNING COMMISSION RECOMMENDATION:

1. Adopt Resolution making Findings, Adopting a Statement of Overriding Consideration, Adopting a Mitigation Monitoring and Reporting Program and approving an amendment to the Elk Grove General Plan amending the General Plan Land Use Map for APNs 115-0162-010, -011, -019, -021, -023, -024, -027, -031, 115-0150-064, -067, -073, 116-0030-045, -068, -069, -089 from Low Density Residential and Medium Density Residential to Commercial and High

Density Residential for the Sheldon/99 GPA and Rezone project and amend the land use of the northern 4.68 acres of APN 121-0190-009 from Estate Residential to Commercial for the Shops at Calvine project (EG 08-018); and

2. Introduce and waive the full reading, by substitution of title only, an Ordinance amending the Calvine/99 Special Planning Area to modify land uses for APNs 115-0162-010, -011, -019, -021, -023, -024, -027, -031, 115-0150-064, -067, and -073 from Low Density Residential and Medium Density Residential to Commercial and High Density Residential and to Rezone APNs 115-0162-010, -011, -019, -021, -023, -024, -027, -031, 115-0150-064, -067, -073, 116-0030-045, -068, -069, and -089 from SPA and AR-5 to GC, LC, and RD-20.

With the aid of an overhead presentation (filed), Jessica Shalamunec, Planning Manager, provided an overview of the staff report and recommendation. She noted that, subsequent to drafting the staff report for this item, the property owner of parcel 116-0030-005 (*western most parcel on southern side of Sheldon Road*) requested that it be rezoned to Shopping Center, rather than General Commercial.

Mayor Hume declared the public hearing open.

PUBLIC COMMENT:

Abe Cerezo asked Council to approve staff's recommendation to zone his property, on which he operates a martial arts school, to Limited Commercial.

David Cohen spoke in support of Mr. Cerezo's request to grant the Limited Commercial designation, as it would then be possible to obtain a commercial loan for the business.

George Carpenter of Winn Communities noted that his firm has property at the southeast corner of the Sheldon Road / Highway 99 interchange, which has been affected by the realignment of east Stockton Boulevard. He asked that this property be rezoned to Shopping Center Commercial, rather than General Commercial, because it would permit gas stations and be consistent with the designation of the remainder of the site.

Mayor Hume declared the public hearing closed.

Council Member Davis noted that market conditions have completely changed between 2005 and present. Additionally he pointed out that a market study is planned to be undertaken soon and judgment on this matter should be reserved until the data is known. He felt it would be premature to make a decision prior to having the market study results. Further he noted that the site is a prime location, i.e. one of a limited number of intersections with freeway frontage, and for this reason he felt making the correct decision was paramount. He supported the requests of Mr. Cerezo and Mr. Carpenter.

Vice Mayor Scherman and Council Members Cooper and Detrick also voiced support for the requests of Mr. Cerezo and Mr. Carpenter.

Mayor Hume suggested some possible changes to staff's recommended zoning designations, to which Ms. Shalamunec explained that it would likely require further California Environmental Quality Act review. Further, Mr. Hazen stated that changing designations from what has been advertised would require a revised public notice.

NOTE: Council recessed at 8:26 p.m. and reconvened with all members present at 8:45 p.m.

City Attorney Cochran advised Council that, if desired, staff's recommended actions could be acted upon with the exclusion parcel 116-0030-005, which could be re-noticed and the public hearing continued to March 25.

Motion #1: M/S Scherman/Detrick to adopt **Resolution No. 2009-46 making Findings, Adopting a Statement of Overriding Consideration, Adopting a Mitigation Monitoring and Reporting Program and approving an amendment to the Elk Grove General Plan amending the General Plan Land Use Map for APNs 115-0162-010, -011, -019, -021, -023, -024, -027, -031, 115-0150-064, -067, -073, 116-0030-045, -068, -069, -089 from Low Density Residential and Medium Density Residential to Commercial and High Density Residential for the Sheldon/99 GPA and Rezone project and amend the land use of the northern 4.68 acres of APN 121-0190-009 from Estate Residential to Commercial for the Shops at Calvine project (EG 08-018). ***The motion passed by the following vote: Ayes: 4; Noes: 1 (Davis).*****

In answer to Mayor Hume, Ms. Shalamunec referenced the table on pages 3 and 4 of the staff report entitled *Sheldon/99 GPA and Rezone Project Existing and Proposed General Plan Land Use Designations and Zoning* and explained that parcel numbers vary between it and the ordinance attachment, due to partial shifts based on the City's acquisition and reconfiguration.

Motion #2: M/S Scherman/Detrick to introduce and waive the full reading, by substitution of title only, **Ordinance No. 5-2009 amending the Calvine/99 Special Planning Area to modify land uses for APNs 115-0162-010, -011, -019, -021, -023, -024, -027, -031, 115-0150-064, -067, and -073 from Low Density Residential and Medium Density Residential to Commercial and High Density Residential and to Rezone APNs 115-0162-010, -011, -019, -021, -023, -024, -027, -031, 115-0150-064, -067, -073, 116-0030-045, -068, -069, and -089 from SPA and AR-5 to GC, LC, and RD-20 **EXCLUDING** Parcel 116-0030-005 (*western most parcel on southern side of Sheldon Road*) rezone to GC. ***The motion passed by the following vote: Ayes: 4; Noes: 1 (Davis).*****

Motion #3: M/S Davis/Scherman to continue the public hearing regarding Parcel 116-0030-005 (*western most parcel on southern side of Sheldon Road*) rezone request from GC to SC, to the regularly scheduled City Council meeting of March 25, 2009. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

REGULAR AGENDA ACTION ITEMS/RECOMMENDATIONS

Agenda Item No. 8.1: Civic Center Project Update

RECOMMENDATION:

Confirm the Civic Center Tier 1 List (mandatory uses/features) and Tier 2 List (other potential uses/features) for the future Civic Center and review the next steps for the public-private partnerships and provide direction as appropriate.

With the aid of an overhead presentation (filed), Jessica Shalamunec, Planning Manager, provided an overview of the staff report and recommendation. She explained that the Tier 1 features would be mandatory components of future design schemes for the Civic Center project. Tier 2 features may be optional based on design contracts or marketability as the project moves forward.

Mayor Hume pointed out an error in the public outreach results in that 32 votes for conference/meeting facilities were not carried forward in the compilation.

Vice Mayor Scherman and Council Member Davis expressed support for having conference/meeting facilities listed on Tier 1.

In answer to Mayor Hume, Finance Director Craig reported that Community Facilities District (CFD) 2003-1 has \$4 million allocated toward a future civic center project. She explained that there will ultimately be \$25 million available in CFD 2005-1, because that was the total project amount identified in the district. Currently \$2 million is available; however, the City will have the ability to bond at the future capabilities against the remainder when the market can bear it. \$4 million is in the Capital Facilities fees, with future funds anticipated.

In answer to Mayor Hume, Jerome Fournier, Planning Department staff member, explained that the private sector may wish to be involved in the design-build aspects of the project in order to meet their leasing needs at a future date.

Council Member Davis recalled a high school that was constructed under a lease leaseback agreement, where the School District leased the property to the developer of the site for \$1 and the facility was leased back until it was paid off in full.

PUBLIC COMMENT:

Johann Schuster recommended that the Civic Center include an indoor playground for children, as well as a museum and small aquarium.

Debra Sacker voiced concern about architect Zaha Hadid, as she is known for constructing abstract buildings with webbed and broken surfaces, which are likely more expensive to build and not representative of Elk Grove. She believed that Los Angeles architect Frank Gehry better understands the "California mindset" and is more sensitive to how a structure fits into a community. Ms. Sacker recommended that the selection of the architect for the Civic Center be reexamined.

Connie Conley urged Council to include convention and meeting space in the Civic Center. She invited everyone to attend the March 18 meeting on the topic of the City's Sphere of Influence and March 24 Charter Commission public workshop.

Council Member Cooper supported Tier 1 and 2 features as presented by staff. He favored the public/private partnership concept and emphasized the economic and tourism benefits that can be derived from athletic facilities.

Council Member Davis agreed with Mr. Cooper's comments and asked that convention facilities and meeting space be added to the Tier 1 list. He expressed optimism that Zaha Hadid would design a facility that would make Elk Grove a destination. He strongly supported public/private partnerships.

Council Member Detrick supported staff's recommendations, as well as the public/private partnership concept.

In answer to Council Member Detrick, Ms. Shalamunec recalled that, in 2006, a Request for Qualifications was sent internationally, with 24 responses received. Former City Manager Danielson convened an internal team to review the responses, of which four were selected for interviews. The matter was presented to Council for consideration in 2007. The City did not receive a response from architect Frank Gehry.

City Attorney Cochran reported that the City entered into the contract (with Zaha Hadid) in June 2008. The contract contains a provision wherein the City can terminate it at convenience. She explained that, if that were done, the City would only be responsible for paying the architect for services rendered to date.

Mayor Hume voiced support for adding convention and exhibit space in Tier 1, as well as a parking facility and the inclusion of an outdoor amphitheater in the park portion of the project. Ms. Shalamunec confirmed that parking is already included.

Vice Mayor Scherman reiterated her support for including convention and meeting space in Tier 1, as well as an indoor youth playground. She supported the public/private partnership concept and believed that parking should be addressed as a top priority. Ms. Scherman stated that she had reservations about architect Zaha Hadid.

Ms. Shalamunec recited her understanding that Council wished to add the following features: 1) convention and meeting space, 2) outdoor amphitheater, and 3) indoor playground.

GENERAL ADMINISTRATION INFORMATION

City Manager Laura Gill reviewed the February 25, 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 received Council concurrence to have a Certificate of Recognition prepared in honor of the 100th anniversary of the National Association for the Advancement of Colored People.

Council Member Davis reported that Elk Grove Youth Sports recently had a kickoff event. Its objective is to provide scholarship opportunities for youngsters in Elk Grove who want to play youth sports. He learned at the Sacramento Area Council of Governments Board of Directors meeting that Elk Grove may receive \$4 million from Federal stimulus funds to replace eight compressed natural gas buses. Elk Grove may also be receiving \$2.5 million for road maintenance improvements. He commented that there had been a recommendation to change the distribution formula, which would have decreased the amount Elk Grove received; however, it was not implemented. He noted that, at the District 4 special budget workshop, an idea surfaced to have Elk Grove play a more active role in facilitating races, such as running, and biking, which he believed would be a good economic development tool.

Vice Mayor Scherman mentioned that she received written communication from her Youth Commission appointee, Kalyn Banks, in which she outlined accomplishments of the Commission. She commended Denise Costello of the Police Department for providing an outstanding presentation to a community interested in establishing a Neighborhood Watch group in their area. The Senior Center recently held a workshop regarding the Poppy Ridge property. She encouraged participation in the Police Officers Association March 14 crab feed fundraiser. She reported that

Cosumnes Community Services District Director of Communications Steve Capps recently suffered a stroke.

Mayor Hume reported that, at the February 24 Sacramento Regional Transit District Board of Directors meeting, the topic of charging for parking in the park-and-ride lots for light rail was discussed. At the Mayors and Board Chairs Forum discussion took place regarding the resurgence of the peripheral canal project and a presentation was made by the California State University, Sacramento Dean of the School of Business Administration on the topic of economics. It was reported that the economy may improve by the end of this year; however, in late 2010, there will be another wave of adjustable rate mortgages which may exacerbate the housing foreclosure situation. The Capital Southeast Connector Joint Powers Authority will be meeting on February 27 to discuss the Elk Grove segment of the connector.

ADJOURNMENT


With no additional business to conduct, the February 25, 2009 City Council meeting was adjourned at 9:59 p.m.

Note: At 9:59 p.m. Council reconvened into Closed Session to consider Item 2A on the February 25, 2009 Special City Council Agenda.



SUSAN J. BLACKSTON,
CITY CLERK

ATTEST:



PATRICK HUME, MAYOR