

**MINUTES OF THE CITY COUNCIL
REGULAR MEETING
Wednesday, August 25, 2010**

CALL TO ORDER/ROLL CALL

Mayor Scherman called the regular City Council meeting of August 25, 2010 to order at 6:02 p.m.

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

Absent: Council Member Davis.

Interim City Clerk Jason Lindgren led the Pledge of Allegiance.

Mayor Scherman asked that a moment of silence be observed.

APPROVAL OF AGENDA

Motion: M/S Hume/Detrick to hear the Closed Session item after the regular action items, to continue Item 8.6 to the meeting of September 8, 2010, to remove Item 8.7 from the consent calendar and hear the item as 10.4 as a regular action item, and approve the remainder of the agenda as presented. ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Davis).***

Note: Closed Session was moved to be heard after the Regular calendar.

CLOSED SESSION

PRESENTATIONS/ANNOUNCEMENTS

None.

PUBLIC COMMENT

Steve Lee raised concern about a lack of on-site noticing of pending development projects, and expressed that notice and project contact information should be posted at project locations and notice sent to citizens in the area of the proposed project. He cited the example of a current project under review, Waterman Square Phase Two at the corner of Bond Road and Waterman Road, in which no notice was posted or given for a project that is currently under review by City staff. Mr. Lee reported that City staff had replied to his inquiries on the project that notice up to this time was not required, and the first opportunity for required notice that would come before the City Council on the project would be a financing request to

approve funds to build proposed low income housing. Mr. Lee also noted that City staff had replied that no correspondence from the community was on file for the project, and Mr. Lee stated he and several other community members had submitted correspondence to City staff regarding the project. Mr. Lee requested a policy be considered to expand on-site noticing requirements and early notification to neighborhoods of planned projects. He also requested confirmation that citizen correspondence relating to projects would be maintained in project files.

City Attorney Susan Cochran replied that the City Zoning Code Section 23.14.040 contains the current requirements for project application notices on site, which applies only to specific types of applications. She noted that if a project can be built that does not require re-zoning or specific plan amendment and is purely an administrative action it would never trigger these noticing requirements nor come before the City Council.

Interim Planning Director Taro Echiburu noted there is currently an application which, as currently presented, is in the category of an administrative approval, though review of the application is not yet complete. Mr. Echiburu noted that noticing requirements could be reviewed for modification, but may better coincide with the comprehensive Zoning Code update that is projected to come before the Planning Commission and City Council after public workshops commence starting this October. He noted that staff would examine what administrative options were currently available to address public notice of projects to bring to the Council at a future date.

Jimmie Johnson challenged candidates who are running for district seats in the November 2, 2010 General Municipal Election to sign a pledge (filed) stating that candidates, from this time forward, would not accept any contributions unless they come from someone who lives in the City of Elk Grove, and that the maximum contribution limit from one source be less than \$500.

Lynn Wheat requested an update on the status of the Sphere of Influence application submitted to the Local Agency Formation Commission. She also requested a timeframe for when the scoping session for the draft Environmental Impact Report for the Sphere of Influence would begin, as well as an update on the status of the current Market Study being conducted by the City.

Kathie Lee noted that the community started coordinating meetings once there was an awareness of the proposed Waterman Square apartment project application. She reported the community was upset about the lack of notice of the project. Ms. Lee reported she had raised concern and discussed with the Chief of Police crime statistics in that area, in which a currently existing apartment complex has an extraordinarily high level of calls for service. She requested that in review of the application for a proposed second apartment complex in the area that crime statistics also be reviewed.

Council Member Hume observed that the Zoning Code has regulations in regards to the proximity of apartment complexes, and asked that apartment complex proximity be reviewed in considering the current Waterman Square phase project application.

GENERAL ADMINISTRATION INFORMATION

City Manager Laura Gill reviewed the August 25, 2010 Administrative Report (filed).

City Manager Gill introduced Rebecca Carr, the new Director of Finance and Administration.

COUNCIL COMMENTS/FUTURE AGENDA ITEMS

Reports on Regional Boards, Commissions, Committees; Travel/Training Expenditures Disclosure (*in accordance with Resolution No. 2009-212 and Government Code § 53232.3(d)*):

Vice Mayor Detrick requested a future agenda item to address public noticing as raised during public comment. He reported on the following activities:

- Participating in National Night Out including being on a police escort visiting numerous locations, including activities at Glenbrook and Cheer Court;
- Working with Council Member Davis on continuing efforts through the State Legislative Ad Hoc Committee to locate state agency offices in Elk Grove;
- Working with Council Member Cooper on the Ad Hoc Committee to study group home regulatory options noting meetings with Joan Buchanan and Directors from Social Services and Juvenile Probation, stating the Ad Hoc Committee was considering to hold a forum in September;
- Attended a recent Town Hall meeting with Dan Lungren;
- Attended the 80th birthday party celebration for Roy Herburger at Roy Herburger Elementary School.

Council Member Hume reported the Sacramento Transportation Authority (STA) Board meeting for this month was canceled. He attended the Capital SouthEast Connector Joint Powers Authority (JPA) Board special meeting on August 19 dedicated to discussion of the Sheldon area limited access road and alternatives being studied, noting his commitment to continue working through and developing the Sheldon area alternatives. Mr. Hume attended the Sacramento Regional Transit District (RT) Board meeting which discussed purchasing shuttles for Paratransit. Mr. Hume noted that regular gasoline vehicles were being considered as RT does not have facilities to support Compressed Natural Gas fueling, and he noted his surprise that the shuttles being considered only have an active service life of four years or 100,000 miles, which seemed low.

Council Member Cooper reported on attending the Sacramento Regional County Sanitation District Board meeting.

Mayor Scherman reported on the following activities: on

- Attended the Mayors and Board Chairs workshop hosted by the City of Citrus Heights on disaster preparedness communication for public officials;
- Attended the Elk Grove Chamber of Commerce luncheon;
- Presented letters of recognition to retiring Cosumnes Community Services District firefighters Jeffrey Ferguson and Steven Horning;
- Attended the Senior Center Board meeting discussing the annual retreat, the *Hot August Nights* event, and introduction of a policy to have Senior Center participants sign hold harmless agreements;
- Attended the Teen Center fundraiser;
- Attended the Elk Grove Economic Development Corporation Board meeting which discussed possible location of facilities in Elk Grove for the businesses General Electric and Intel;
- Attended the Small Business Expo;
- Presented a letter of recognition to Hal Bartholomew at the Hal Bartholomew Sports Park Dedication Ceremony;
- Attended four different neighborhoods on National Night Out;
- Reported the Library Board meeting was canceled;
- Attended a meet and greet with Donna Burke of AT&T providing a copy of the resolution promoting the dangers of texting while driving that the City presented to the League of California Cities to be voted on at the annual conference in September.

Mayor Scherman announced a fundraiser event for the Elk Grove Food Bank on August 28 to fill a bus with non-perishable foods. The bus would be visiting locations at Henry's Market, Grocery Outlet, and Raley's Bel Air on Waterman for donations.

CONSENT CALENDAR ITEMS

In reply to Council Member Hume, Public Works Director Richard Shepard stated that in regards to Item 8.9 the timing on the landscaping for the interchanges was dependent on making contractual arrangements with Caltrans. He projected that upon the approval of the agreements tonight, advertising for the bids would occur in late September or early October, and construction would start around the first of the new year.

Motion: M/S Hume/Detrick to approve the Consent Calendar, absent Items 8.6 and 8.7, as presented. ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Davis).***

Agenda Item No. 8.1: Received Automatic Clearing House Nos. 1768 through 1938 dated July 1, 2010 through July 31, 2010, General Warrant Nos. 54189 through 54541, and Electronic Fund Transfer Nos. 2011001 through 2011020

Agenda Item No. 8.2: Received June 2010 Treasurer's Report

Agenda Item No. 8.3: Approved July 28, 2010 Special City Council Meeting Minutes

Agenda Item No. 8.4: Received report on City Manager approved purchases and contracts authorized by Elk Grove Municipal Code Chapter 3.42 Contracts and Purchasing, filed through August 18, 2010

Agenda Item No. 8.5: Received report on Requests for Proposals, Qualifications, and Bids

Note: Item 8.6 was moved to be heard on the September 8, 2010 regular meeting.

~~**Agenda Item No. 8.6:** **Ordinance No. 17-2010** adopted amending Elk Grove Municipal Code Section 23.98.030 regarding the clear-vision triangle **(Second Reading)**~~

Note: Item 8.7 was moved to be heard on the Regular calendar as Item 10.4.

~~**Agenda Item No. 8.7:** **Ordinance No. 18-2010** adopted amending Elk Grove Municipal Code Chapter 12.12 regarding *Obstruction of Corners* **(Second Reading)**~~

Agenda Item No. 8.8: **Resolution No. 2010-178** adopted authorizing the City Manager to execute Memorandum of Understanding and related agreements with the Sacramento Transportation Authority for Measure A Ongoing Annual Capital Program expenditures

Agenda Item No. 8.9: **Resolution No. 2010-179** adopted authorizing the City Manager to execute Freeway Maintenance and Landscape Maintenance Agreements with Caltrans for the Grant Line Road / State Route 99 and Sheldon Road / State Route 99 Interchanges

Agenda Item No. 8.10: **Resolution No. 2010-180** adopted declaring intention to annex territory to Community Facilities District No. 2006-1 (Maintenance Services) and to levy a special tax to pay for certain maintenance services (Annexation No. 16); **Resolution No. 2010-181** adopted declaring intention to annex territory to Community Facilities District No. 2003-1 (Poppy Ridge) and to levy a special tax to pay for infrastructure and certain police services (Annexation No. 3); and **Resolution No. 2010-182** adopted declaring intention to levy Street Maintenance Assessments District No. 1 Zone 1A – East Franklin Area (Annexation No. 2)

Agenda Item No. 8.11: **Resolution No. 2010-183** adopted finding the Police Reorganization Tenant Improvement Project exempt from the California Environmental Quality Act and directing the filing of a Notice of Exemption and

authorizing the City Manager to execute a construction contract with Gildan Builders, Inc. for the Police Reorganization Tenant Improvement Project in an amount not to exceed \$112,400, authorizing the City Engineer to approve change orders not-to-exceed \$20,000

Agenda Item No. 8.12: Resolution No. 2010-184 adopted repealing Resolution No. 2010-123 and authorizing the City Manager to execute all contracts, reports, and other documents required for receiving 2009 State Homeland Security Grant Program funds

Agenda Item No. 8.13: Resolution No. 2010-185 adopted authorizing the City Manager to accept grant funding from the California Emergency Management Agency as appropriated under the Department of Homeland Security Appropriations Act, 2010, for the establishment of an Emergency Operations Center

PUBLIC HEARINGS

Agenda Item No. 9.1: A continued public hearing (*July 28, 2010*) to consider approving a Letter of Public Convenience and Necessity for a Type 20 (Off-Sale Beer and Wine) alcohol license for Walgreens located at 9180 Franklin Boulevard (Project No. EG-09-066; APN: 119-0144-005)

RECOMMENDATION

Staff recommends the Council review and consider the options listed below:

- 1) Adopt resolution approving a Letter of Public Convenience and Necessity for a Type 20 alcohol license for the Walgreens drug store at 9180 Franklin Boulevard; OR
- 2) Continue the item to a date uncertain and direct the Applicant back to the Planning Commission for a Conditional Use Permit Amendment; OR
- 3) Approve the Public Convenience and Necessity Letter contingent upon the approval of a Conditional Use Permit Amendment initiated by the Applicant; OR
- 4) Deny the Public Convenience and Necessity Letter

Mike Costa, Associate Planner, provided an overview of the staff report and recommendation. Mr. Costa reported that the applicant has continued to work with citizen groups at the shopping center site and came to terms on a letter of agreement with that collective group. He noted that the terms of that letter agreement could be included as an amendment to a Conditional Use Permit to provide the City a means to enforce the proposed policies.

Mayor Scherman declared the public hearing open.

PUBLIC COMMENT:

Seth Merewitz, speaking on behalf of Walgreens, noted meetings held with Mr. Chamberlain and other community members to address community concerns. Mr. Merewitz noted none of the community participants were in attendance at this hearing which he surmised as a positive sign of mutual agreement. Mr. Merewitz confirmed Walgreens' commitment to meeting the additional policies, and requested the City Council approve the request as outlined under Option One which would not require any further need to amend the Conditional Use Permit.

Marina Frugoli, one of the partners that own the parcel where the Walgreens is located, stated she had met with the concerned residential neighbors, neighboring tenants at the commercial site, and the Walgreens representatives and she believed that concerns of all parties were addressed. Ms. Frugoli asked the Council to consider approving the application.

Mayor Scherman declared the public hearing closed.

In reply to Vice Mayor Detrick, City Attorney Susan Cochran replied that without amending the Conditional Use Permit to include the policies of the letter agreement between Walgreens and the collective citizen group, the City would have no enforcement mechanism to ensure the policies are implemented.

Motion: M/S Cooper/Hume to adopt Resolution No. 2010-186 as amended approving a Letter of Public Convenience and Necessity for a Type 20 alcohol license for the Walgreens drug store at 9180 Franklin Boulevard contingent upon the approval of a Conditional Use Permit Amendment initiated by the Applicant. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Davis).

Motion: M/S Cooper/Hume to hear item 10.3 next on the agenda. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Davis).

Agenda Item No. 10.3: Introduce Ordinances: 1) Adding Chapter 9.31 to the Elk Grove Municipal Code prohibiting medical marijuana dispensaries; and 2) Renumbering Elk Grove Municipal Code Chapters 6.26 and 6.30 to become Chapters 9.24 and 9.28 respectively, for general subject matter consistency

RECOMMENDATION:

- 1) Introduce and waive the full reading by substitution of title only, an Ordinance adding Elk Grove Municipal Code Chapter 9.31 titled medical marijuana dispensaries; and
- 2) Introduce and waive the full reading by substitution of title only, an Ordinance renumbering Elk Grove Municipal Code Chapter 6.26 to Chapter 9.24 regarding

distribution of tobacco products to minors and renumbering Chapter 6.30 to Chapter 9.28 regarding public consumption of marijuana.

Robert Lehner, Chief of Police, and Susan Burns Cochran, City Attorney, provided an overview of the staff report and recommendation.

PUBLIC COMMENT:

None.

Motion #1: *M/S Detrick/Scherman* to introduce and waive the full reading, by substitution of title only, **Ordinance No. 19-2010** adding Elk Grove Municipal Code Chapter 9.31 titled medical marijuana dispensaries. ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Davis).***

Motion #2: *M/S Detrick/Scherman* to introduce and waive the full reading, by substitution of title only, **Ordinance No. 20-2010** renumbering Elk Grove Municipal Code Chapter 6.26 to Chapter 9.24 regarding distribution of tobacco products to minors and renumbering Chapter 6.30 to Chapter 9.28 regarding public consumption of marijuana. ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Davis).***

Note: Council Member Cooper left the meeting at 6:58 p.m.

Agenda Item No. 9.2: Continue public hearing to a date uncertain to consider updates to Swainson's Hawk Mitigation Fees

RECOMMENDATION

Open the public hearing and receive public comment, then continue the item to a date uncertain to be re-noticed appropriately to address California Environmental Quality Act environmental concerns.

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

Mayor Scherman declared the public hearing open.

PUBLIC COMMENT:

Lynn Wheat requested that a date be identified for when Swainson's Hawk Mitigation Fees will be considered as a courtesy for the public to plan and participate in reviewing all pertinent documents. Ms. Wheat inquired if public scoping meetings were going to be held to identify the range of environmental issues that are going to be analyzed within the context of examining Swainson's Hawk Mitigation Fees.

In reply to Council Member Hume, Interim Planning Director Taro Echiburu stated that the timeframe to return with the Swainson's Hawk Mitigation Fee public hearing would be dependent on the level of environmental review required, which had not been determined at this time. Mr. Echiburu provided an estimated time range of three to six months.

By Council consensus the public hearing was continued to a date uncertain.

Agenda Item No. 9.3: A public hearing pursuant to the Federal Tax Equity and Fiscal Responsibility Act (TEFRA) to adopt a resolution approving a letter of support for the issuance of recovery zone facility bonds, not to exceed \$1.5 million, by the California Statewide Communities Development Authority on behalf of SunEdison, LLC for Solar Equipment Acquisition and Installation Project at the Kohl's Department Store at Elk Grove Commons (9650 Bruceville Road; APN: 132-1750-001)

RECOMMENDATION

Adopt resolution approving a letter of support for the issuance of recovery zone facility bonds, not to exceed \$1.5 million, by the California Statewide Communities Development Authority on behalf of SunEdison, LLC for Solar Equipment Acquisition and Installation Project at the Kohl's Department Store at Elk Grove Commons (9650 Bruceville Road).

Angela Frost, Management Analyst, provided an overview of the staff report and recommendation. Ms. Frost noted that projects applying for Recovery Zone Facility Bonds are required to be located in a designated Recovery Zone Area. She noted a "green sheet" submitted for Council consideration that is an amendment to the resolution, adding confirmation that the City of Elk Grove is a designated Recovery Zone Area.

Mayor Scherman declared the public hearing open.

PUBLIC COMMENT:

Luke Mawhinney, Utility Sales Manager representing SunEdison, LLC, explained the project proposes to install solar equipment on the rooftop of the Kohl's Department store. The power generated would be equivalent to the power required for approximately 36 homes, which would serve roughly one third of the usage of the store, the remaining two thirds would come from the store's utility provider.

Council Member Hume inquired if SunEdison, LLC had any solar installation projects over parking fields, which would also reduce the heat impact on the asphalt and provide shade. Mr. Mawhinney replied that solar installations have been done on parking canopies, but often it is the preference of the customer as to where solar installations are placed. Mr. Mawhinney cited cost as a factor, as rooftop

installations are easier to install and often at lower cost than parking canopies, and customers have raised issues with parking canopies as they can block signage and visibility of stores from the street.

Vice Mayor Detrick inquired if, on a temporary basis, the electricity could go back into the grid and be credited back onto Kohl's, and whether any subsidies were being received from other agencies for this project which other local projects could benefit from. Mr. Mawhinney confirmed that subsidies have contributed to the funding for the project. He also replied that since the project only powers one third of the projected need of the store, on off days it could contribute power back to the grid, but the usage needs of the store would outpace surplus energy that could be generated.

Mayor Scherman declared the public hearing closed.

Motion: *M/S Hume/Detrick to adopt Resolution No. 2010-187 as amended to include recognition that the City of Elk Grove is a designated Recovery Zone Area approving a letter of support for the issuance of recovery zone facility bonds, not to exceed \$1.5 million, by the California Statewide Communities Development Authority on behalf of SunEdison, LLC for Solar Equipment Acquisition and Installation Project at the Kohl's Department Store at Elk Grove Commons (9650 Bruceville Road). **The motion passed by the following vote: Ayes: 3; Noes: 0; Absent: 2 (Cooper, Davis).***

REGULAR AGENDA ACTION ITEMS/RECOMMENDATIONS

Agenda Item No. 10.1: Consider approval of submittal of an application to the California Department of Housing and Community Development for funding under the HOME Investment Partnerships Program and authorizing the City Manager to execute a standard agreement, any amendments thereto, and any related documents necessary to participate in the HOME Investment Partnerships Program if the City of Elk Grove is selected to receive HOME funds

RECOMMENDATION:

Adopt resolution approving the submittal of an application to the California Department of Housing and Community Development (HCD) for funding under the HOME Investment Partnerships Program (HOME) and authorizing the City Manager to execute a standard agreement and any other required documents with HCD if the City of Elk Grove is selected to receive HOME funds.

Taro Echiburu, Interim Planning Director, provided an overview of the staff report and recommendation.

PUBLIC COMMENT:

None.

Motion: *M/S Hume/Detrick* to adopt **Resolution No. 2010-188** approving the submittal of an application to the California Department of Housing and Community Development (HCD) for funding under the HOME Investment Partnerships Program (HOME) and authorizing the City Manager to execute a standard agreement and any other required documents with HCD if the City of Elk Grove is selected to receive HOME funds. ***The motion passed by the following vote: Ayes: 3; Noes: 0; Absent: 2 (Cooper, Davis).***

Agenda Item No. 10.2: Consider resolution authorizing the City Manager to provide notice of non-renewal to State Compensation Insurance Fund and execute the necessary documents to secure workers' compensation insurance coverage with Travelers Property Casualty Company of America effective 12:01 a.m., September 1, 2010

RECOMMENDATION:

Adopt resolution authorizing the City Manager to provide notice of non-renewal to State Compensation Insurance Fund and execute the necessary documents to secure workers' compensation insurance coverage with Travelers Property Casualty Company of America effective 12:01 a.m., September 1, 2010.

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

PUBLIC COMMENT:

None.

Motion: *M/S Detrick/Hume* to adopt **Resolution No. 2010-189** authorizing the City Manager to provide notice of non-renewal to State Compensation Insurance Fund and execute the necessary documents to secure workers' compensation insurance coverage with Travelers Property Casualty Company of America effective 12:01 a.m., September 1, 2010. ***The motion passed by the following vote: Ayes: 3; Noes: 0; Absent: 2 (Cooper, Davis).***

Note: Item 10.3 was moved by motion to be heard after Item 9.1.

~~**Agenda Item No. 10.3:** Introduce Ordinances: 1) Adding Chapter 9.31 to the Elk Grove Municipal Code prohibiting medical marijuana dispensaries; and 2) Renumbering Elk Grove Municipal Code Chapters 6.26 and 6.30 to become Chapters 9.24 and 9.28 respectively, for general subject matter consistency~~

Note: Item 8.7 was moved to be heard on the Regular calendar as Item 10.4.

Agenda Item No. 10.4: Introduce an ordinance amending Elk Grove Municipal Code Chapter 12.12 regarding *Obstruction of Corners*

RECOMMENDATION:

Introduce and waive the full reading, by substitution of title only, an ordinance as *amended* amending Elk Grove Municipal Code Chapter 12.12 regarding *Obstruction of Corners*

Richard Shepard, Public Works Director, provided an overview of a “green sheet” submitted for Council consideration that is a correction to the language of the ordinance. He noted there is an error in the text, and that references to a two foot, six inch clearance should read as 36 inches, correcting Sections 12.12.010, 12.12.020, and Figure 12.12-1. He noted that the substantive change of this revision requires the ordinance to be re-introduced with a first reading at this meeting, and the second reading would occur at the next regular meeting.

PUBLIC COMMENT:

None.

Motion: *M/S Hume/Detrick* to introduce and waive the full reading, by substitution of title only, **Ordinance No. 18-2010** amending Elk Grove Municipal Code Chapter 12.12 regarding *Obstruction of Corners*. ***The motion passed by the following vote: Ayes: 3; Noes: 0; Absent: 2 (Cooper, Davis).***

Note: Closed Session was moved to be heard after the Regular calendar.

CLOSED SESSION

The Interim City Clerk announced the following closed session item prior to Council adjourning to closed session at 7:22 p.m.:

PUBLIC COMMENT:

None.

A) CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code § 54956.8

Property Descriptions: 0 Union Park Way
Elk Grove, CA 95624
APN: 134-0630-064-0000

City Negotiators: Laura Gill, City Manager

Negotiating parties: John Jackson and Gregg Mason representing JPI XXX, L.P., a California Limited Partnership (a related entity of Jackson Properties)

Under negotiation: Price and Terms

The City Council reconvened at 7:33 p.m. with Mayor Scherman, Vice Mayor Detrick, and Council Member Hume present. Mayor Scherman announced that no reportable action was taken in closed session.

ADJOURNMENT

With no additional business to conduct, the August 25, 2010 City Council meeting was adjourned at 7:33 p.m.



JASON LINDGREN,
INTERIM CITY CLERK

ATTEST:



SOPHIA SCHERMAN, MAYOR