

**MINUTES OF THE CITY COUNCIL
REGULAR MEETING
Wednesday, October 27, 2010**

CALL TO ORDER/ROLL CALL

Mayor Scherman called the regular City Council meeting of October 27, 2010 to order at 6:32 p.m.

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

Absent: None.

Toby Johnson, retired Sacramento County Board Supervisor, led the Pledge of Allegiance.

Mayor Scherman asked that a moment of silence be observed.

APPROVAL OF AGENDA

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

CLOSED SESSION

None.

PRESENTATIONS/ANNOUNCEMENTS

4.1 Council Member Hume presented a certificate of recognition to the California Cowgirls Equestrian Drill Team for their performances at the *Alltech Federation Equestre Internationale* World Equestrian Games in Lexington, Kentucky.

4.2 Council Member Davis presented a proclamation to Katie Highsmith and Michael Conner, Pharmacy School Executive Board Members of the University of the Pacific, declaring October 2010 as American Pharmacists Month.

PUBLIC COMMENT

Peter Cianchetta, speaking on behalf of Stepping Stone Learning Academy, Inc., believed the City had not been responsive to requests for assistance in addressing issues with a smoke shop in proximity of the pre-school business site. He noted the smoke shop, which sold cigarettes, drug paraphernalia, and pornography, was

incompatible with the pre-school. Individuals who frequented the smoke shop persistently smoked outside the business, even though signs posted prohibited such activity. He requested that such violations of the law be enforced. Mr. Cianchetta expressed frustration with the originating approval for the use of the smoke shop, noting that the business license issued to the smoke shop occurred congruently with the school's occupancy review, and he believed the purpose of a Conditional Use Permit was to ensure compatibility of neighboring uses, whether existing or in the application process for approval.

Sheila Haddox, co-owner of Stepping Stone Learning Academy, Inc., noted the issues with the neighboring smoke shop have persisted since being issued a Conditional Use Permit in August 2006. She felt that issues to date apparently were ignored by the City, especially for issues occurring in the last month. She noted the business, clientele, and activities around the smoke shop site, 85 feet from her business, were incompatible with maintaining a safe, healthy environment for the families and preschoolers her business serves. Ms. Haddox believed the continued operation of the smoke shop was detrimental to the community and the businesses at the shopping center, and stated her dismay that during an information search she had discovered that the smoke shop business was sold to another party in February of this year.

Lynn Wheat shared that the conference *New Partners For Smart Growth – Building Safe, Healthy and Livable Communities* would be held soon and could be utilized as a resource if attended by staff and/or council members to provide ideas for employing smart growth as a tool for economic vitality. She believed the incompatible uses of the pre-school and smoke shop, brought up during earlier public comment, could be addressed through sound, planning policies. Ms. Wheat noted recent election materials she received highlighting one council member's contributions to produce a sound budget, which she believed was a group effort from management, staff, and the entire City Council as a team.

Linda Beattie expressed her thanks to the Sacramento Regional Transit District (RT) and General Manager Mike Wiley who supervised provision of buses to supplement the e-tran bus fleet. She appreciated the information provided by City staff in response to the rider alert log she requested. She stated that recently she and fellow riders were subject to uncomfortable, embarrassing, and potentially unsafe boarding conditions into back-up fleet vehicles due to a recent lack of operational buses on transit routes. The RT buses provided relief from such conditions, but she noted if such conditions occurred again she would report the matter to appropriate agencies. Ms. Beattie requested that the riders alert provide accurate information on the condition of transit services, as numerous riders reported recent events were due to vehicle malfunctions, not a shortage of buses, and without accurate information the public trust would be lost.

Jannell Nolan, parent and employee at Stepping Stone Learning Academy, Inc., provided her observations that the clientele and atmosphere at the smoke shop continues to worsen. She expressed concern that though the owners of the school take every precaution, they do not have the resources to police and protect their clients on a daily basis, and agreed with sentiments that the City had not adequately responded to the issues at the site over the years.

Joseph Nolan requested action be taken by the City to correct conditions at the smoke shop site before any incident escalated to a level that harmed individuals or the reputations of the school, surrounding businesses, or the community.

Edyth Taylor believed the environment of the smoke shop was inappropriate for children attending the school. She had observed legally questionable activity of the clientele of the smoke shop, and did not believe the environment around the smoke shop was safe nor appropriate for school aged children.

Mimi DeVille commended the efforts of Stepping Stone Learning Academy supporters as she was a parent whose child attends classes in the adjacent building at Kovars Satori Academy of Martial Arts, and agreed that the environment of the smoke shop was disconcerting. Ms. DeVille requested assistance with issues of occupants of a residential home growing marijuana in the Lakeside community. The many two-story, surrounding homes had visibility into the one-story home, and neighbors had reported residents smoking and cultivating marijuana, keeping unlicensed animals, and other nuisance violations. Neighbors were concerned over the amount of traffic coming in and out of the neighborhood, which they believed was indicative of a drug dealing operation, and were concerned for their personal safety.

Police Chief Robert Lehner encouraged Ms. DeVille and neighbors in the Lakeside community to continue to work with the Elk Grove Police Department to address issues at the site. In addressing the issue of the smoke shop in proximity to the school, Chief Lehner reported a status update report was being compiled of activities reported and violations that had been enforced to date. He noted there was no ordinance prohibiting loitering, and any ordinance crafted would likely not be effective as there were very limited circumstances in which such law was permitted that did not infringe on constitutional rights of assembly. In regards to activities that have been reported at the smoke shop, Chief Lehner confirmed that the Police and Code Enforcement Departments had responded to calls, and continued to evaluate the situation, and urged the community to report any illegal activity immediately to the Police Department for officers to respond to such incidents as they occur.

Interim Planning Director Taro Echiburú explained the existing use of the smoke shop was an allowed by-right use based on the land use zoning designation of the site, and the school use had required a Conditional Use Permit to operate in the same zone.

Council Member Hume believed a Conditional Use Permit should be required of businesses selling tobacco products and smoking paraphernalia. He urged the community to continue to call and report on incidences at the smoke shop. He noted that when an excessive amount of valid calls were made at a particular business, that business would start being billed by the City. Since the existing business was technically not breaking the law, he believed the reported activities of the clientele at the site would warrant such accumulation of calls and subsequent fines and place financial pressure on the business to vacate. Mr. Hume believed an ordinance should be drafted limiting outdoor cultivation of marijuana.

Council Member Davis believed more stringent requirements were needed, and for the City to implement a broader planning consideration when evaluating placement of schools and child services, utilizing a health and safety perspective that could be united with a Sustainability Element to the General Plan. Mr. Davis suggested compiling a list of locations with similar incompatible uses, or problematic sites, that officers on patrol could prioritize to visit frequently to monitor activity at those sites.

Interim Planning Director Taro Echiburú verified for that site, and similarly zoned sites in the City, there were no restrictions that would prohibit the opening of additional smoke shops as they were by-right based on the land use zoning designation.

City Attorney Susan Cochran noted that if the Council were to take action to limit such smoke shops, current existing uses would be "grandfathered in" and would not be subject to new restrictions. She added that the right to continue as an existing use remained with the property, a change of ownership had no effect on altering an established use.

Vice Mayor Detrick supported an ordinance to restrict smoke shops, and inquired if there was existing regulation regarding cultivation of marijuana, and on marijuana smoke and smoking in proximity to residences.

Police Chief Lehner stated incidences reported were often related to medical marijuana issues, and that if a person qualified as a medical marijuana user, there existed limited ability for them to cultivate marijuana on their own property. In regards to the use of marijuana on private property, proximity restrictions would not apply to qualified medical marijuana users any more than it would to cigarette smoke.

Council Member Cooper recalled a proposed ordinance from 2005 to limit tobacco, alcohol, and gun sales within a thousand feet of any school site, public or private, and proposed bringing such an ordinance back for consideration.

GENERAL ADMINISTRATION INFORMATION

City Manager Laura Gill reviewed the October 27, 2010 Administrative Report (filed).

COUNCIL COMMENTS/FUTURE AGENDA ITEMS

Council Member Cooper attended the Sacramento Regional County Sanitation Board of Directors meeting where the National Pollutant Discharge Elimination System (NPDES) Permit was discussed.

Council Member Hume attended the Sacramento Transportation Authority (STA) Board meeting which received a presentation on the Capital SouthEast Connector Project, and that with low Measure A revenues, the STA Board approved shifting funds from future projects to support current programs. He reported not being able to attend the Sacramento Regional Transit District (RT) Board meeting. Regarding the Capital SouthEast Connector, he noted the Sheldon Group provided a copy of their report for consideration in the Preliminary Environmental Impact Report (PEIR). Mr. Hume attended the funeral of his nephew, Daniel Harry, and requested the meeting adjournment include an in memoriam for his nephew.

Council Member Davis attended the *Discover Elk Grove* event and attended the unveiling of the City of Elk Grove Time Capsule. The Time Capsule was a beautifully handcrafted stagecoach, encompassed in a glass case, and could be viewed in the lobby at the 8401 Laguna Palms Way building. Mr. Davis noted donations were continuing to be accepted for the project by purchasing sponsorships, which were displayed as wood panels affixed to the display on the outside of the base pedestal.

Vice Mayor Detrick requested future agenda items to address concerns raised during public comment addressing smoke shops in commercial zoning, and the cultivation and smoking of marijuana in the proximity of homes.

The Council agreed by consensus to return such matters for consideration, and Council Member Davis requested parks and playgrounds be included as exclusionary zones.

Vice Mayor Detrick attended the *Pillars of Promise Award* event, which recognized the "100 Best Communities for Young People" where Sacramento County and regional cities were award recipients. He had joined Council Member Hume at the funeral for Daniel Harry, and noted the recent passing of Elk Grove residents: longtime football coach Greg Cochran, and Vice Mayor Detrick's father Allan Detrick Sr.

Mayor Scherman attended the monthly City of Elk Grove and Sacramento County meeting, the Elk Grove Optimist Club's *Oktoberfest* celebration, the *Discover Elk*

Grove event, and attended a meeting of the Elk Grove Old Town Foundation which discussed a recent disagreement regarding the use of the event name "Dickens Fair" that occurred with promoters of a similarly named Bay Area event. She attended the Elk Grove Economic Development Corporation meeting which discussed hiring a private firm to conduct the audit requested by the City. She attended a training forum for women hosted by Lisa Kaplan, and met on two separate days with Congressman Dan Lungren with representatives of Elk Grove Adult Community Training (EGACT) and Elk Grove Food Bank Services. Mayor Scherman announced that, in conjunction with Allied Waste Services, three, \$1,000 scholarships would be awarded starting in May of next year, and continuing on an annual basis, to Elk Grove graduating seniors. She noted there was no financial commitment to the City, only staff volunteer time to review applications and the 500 word essays submitted as part of the process.

Note: Council Member Davis left at 7:44 p.m.

CONSENT CALENDAR ITEMS

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

Agenda Item No. 8.1: Approved October 13, 2010 Special City Council Meeting Minutes

Agenda Item No. 8.2: Received report on City Manager approved purchases and contracts authorized by Elk Grove Municipal Code Chapter 3.42 Contracts and Purchasing, filed through October 20, 2010

Agenda Item No. 8.3: Received report on Requests for Proposals, Qualifications, and Bids

Agenda Item No. 8.4: Adopted **Ordinance No. 22-2010** levying and apportioning the special tax in territory annexed to Community Facilities District No. 2006-1 (Maintenance Services) (Annexation No. 16) and amending Elk Grove Municipal Code Section 3.19.010 (**Second Reading**)

Agenda Item No. 8.5: Adopted **Ordinance No. 23-2010** levying and apportioning the special tax in territory annexed to Community Facilities District No. 2003-1 (Poppy Ridge) (Annexation No. 3) and amending Elk Grove Municipal Code Section 3.16.010 (**Second Reading**)

Agenda Item No. 8.6: Adopted **Ordinance No. 24-2010** amending Title 16 of the Elk Grove Municipal Code relating to buildings and construction and adopting by reference the 2010: California Administrative Code, California Building Code; California Residential Code; California Green Building Standards Code; California

Plumbing Code; California Electrical Code; and California Mechanical Code
(Second Reading)

Agenda Item No. 8.7: Adopted **Ordinance No. 25-2010** amending Elk Grove Municipal Code Section 9.19.041(A)(6) to update naming conventions relating to emergency services organization and functions **(Second Reading)**

Agenda Item No. 8.8: **Resolution No. 2010-222** ratifying the expenditures of funds to Republic Electric for Traffic Signal and Streetlight Engineering and Maintenance Services provided to the City of Elk Grove in an amount of \$517,482

Agenda Item No. 8.9: **Resolution No. 2010-223** authorizing the City Manager to execute two separate contract amendments: 1) extend the contract termination date with MCE Corporation to June 30, 2011 (an additional six months) and increase authorization of contract not-to-exceed \$1,500,000 *[for a total compensation not-to-exceed \$12,981,000 for a four-year period]*; and 2) extend the contract termination date with Republic Electric to June 30, 2011 (an additional six months) and increase authorization of contract not-to-exceed \$600,000 *[for a total compensation not-to-exceed \$5,504,399 for a five-year period]*

Note: Council Member Davis returned at 7:50 p.m.

PUBLIC HEARINGS

Agenda Item No. 9.1: A continued public hearing (*October 13, 2010*) to consider an amendment to Section 8.1.4, Guiding Principles for Infrastructure and Public Facilities, and Table 8-1, Required On- and Off-site Circulation Infrastructure, of the Laguna Ridge Specific Plan

PLANNING COMMISSION RECOMMENDATION

Adopt resolution finding the project exempt from CEQA and approving the Laguna Ridge Specific Plan Amendment to Section 8.1.4 and Table 8-1 subject to the findings in the resolution.

With the aid of an overhead presentation (filed), Fritz Buchman, Public Works Division Manager, provided an overview of the staff report and recommendation. The Laguna Ridge Specific Plan (LRSP) required infrastructure to be completed prior to residential building permit issuance in each of the three geographic areas in the plan. Private industry noted changes in the economy and conditions of the LRSP had made completion of infrastructure by geographic zone infeasible. In October 2009 the Council directed staff to modify the infrastructure requirements to reflect a "build as you go" system. The changes to the LRSP proposed included amendments to Section 8.1.4 *Guiding Principles for Phasing Infrastructure and Public Facilities* and Table 8-1, *Required On and Off-site Circulation Infrastructure*. The amendments did not directly impact existing development of current building

permits or projects with approved final maps. The changes to Section 8.1.4 included removal of requirements for applicants to perform project specific analysis to determine infrastructure needs, and removed reference to the Finance Plan Infrastructure Matrix that detailed specific infrastructure requirements for each geographic phase. Changes were implemented to clarify dedication requirements and the property ownership of parks, and added language giving City the ability to defer improvements based on their current need, and to collect payments or enter improvement agreements as appropriate. Table 8-1 was updated to recognize the infrastructure improvements already in place, updated street names to current names, and removed off-site connections to the south. Mr. Buchman noted the amendments would continue to require that infrastructure timing would still be in place concurrent with, or prior to, the impact of development.

Mayor Scherman declared the public hearing open.

PUBLIC COMMENT:

None.

Mayor Scherman declared the public hearing closed.

Motion: M/S Cooper/Hume to adopt **Resolution No. 2010-224** finding the project exempt from CEQA and approving the Laguna Ridge Specific Plan Amendment to Section 8.1.4 and Table 8-1 subject to the findings in the resolution. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

REGULAR AGENDA ACTION ITEMS / RECOMMENDATIONS

Agenda Item No. 10.1: Consider resolution approving identified streets for speed control measures and directing staff to proceed with design

RECOMMENDATION:

Adopt resolution approving identified streets for speed control measures and directing staff to proceed with design.

With the aid of an overhead presentation (filed), Gwen Owens, Senior Engineer, provided an overview of the staff report and recommendation. In November 2008 the City adopted a program to provide residents a mechanism to request speed control measures on City streets. Through the process, 55 applications were submitted relating to 54 different streets, and of the requested streets, 31 qualified for the program (qualification consisting of being two-lane streets, a minimum traffic volume of 500 vehicles per day, possessed a current speed limit of 35 miles per hour or less, and 75% of land use in proximity to the street had to be near a residential area, park, or school). Per the program policy, 1,200 ballots were mailed to residents and 25 streets met the approval requirements (50% of the ballots had to be returned, and two thirds of the ballots returned had to be in favor of the

measure). The Cosumnes Community Services District Fire Department found 13 of the street plans acceptable, and identified issues for the remaining 12 which were required to go before the Traffic Safety Committee and would return for Council consideration at a future date. The action tonight would authorize commencing design for the 13 streets in which the traffic calming plans were found acceptable.

PUBLIC COMMENT:

None.

Motion: ***M/S Cooper/Hume*** to adopt **Resolution No. 2010-225** approving identified streets for speed control measures and directing staff to proceed with design. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 10.2: Fourth of July Celebration

RECOMMENDATION:

Receive the report on the 2010 Fourth of July celebration and provide direction regarding the City's involvement in future Fourth of July celebrations.

Laura Gill, City Manager, provided an overview of the staff report and recommendation. For the Fourth of July Celebration, in comparing direct costs versus direct revenues the City subsidized the event by an about just over \$5,000, with donations and parking comprising the majority of revenues. The total direct cost was approximately \$49,000, with \$25,000 for the fireworks. In-kind services costs were incurred for City staff approximated at over \$32,000, and Cosumnes Community Services District (CCSD) staff provided approximately \$53,000 of in-kind services and waiver of rental fees. City and CCSD staff had recently met and recommend continuation of the event, with the City as lead and the CCSD providing support. If Council concurred with the recommendation, preparations would commence to organize volunteers, begin donation fundraising, and to establish an event budget for approval at mid-year.

In reply to Vice Mayor Detrick, City Manager Gill noted that with additional time to prepare, the City would be able to conduct timely outreach and minimize confusion by communicating that all donations for the event were to go to the City.

Council Member Hume was in favor of continuing the event, and suggested an initial \$10,000 be allocated from the General Fund.

Vice Mayor Detrick requested staff set a goal to utilize fundraising and volunteers to come to a net zero cost for the event, but agreed with Council Member Hume's initial allocation.

Council Member Davis agreed and requested a parade be considered for inclusion as part of future Fourth of July celebration activities.

City Manager Gill received initial approval from the Council to utilize the contingency fund to appropriate \$25,000 to cover the initial cost for the fireworks, and the proposed event budget would be presented with the mid-year budget review for final Council approval.

PUBLIC COMMENT:

None.

Note: Vice Mayor Detrick left at 8:09 p.m.

Agenda Item No. 10.3: Consider resolutions: 1) adopting a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program for the Transit Yard and Corporation Yard Master Plans Project, and 2) adopting the Transit Yard Master Plan and the Corporation Yard Facilities Master Plan

RECOMMENDATION:

Adopt resolutions:

- 1) Adopting a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program for the Transit Yard and Corporation Yard Facilities Master Plans Project; and
- 2) Adopting the Transit Yard Master Plan and the Corporation Yard Facilities Master Plan.

The verbal staff report was waived.

PUBLIC COMMENT:

None.

Motion #1: *M/S Cooper/Hume* to adopt **Resolution No. 2010-226** adopting a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program for the Transit Yard and Corporation Yard Facilities Master Plans Project. ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Detrick).***

Motion #2: *M/S Cooper/Hume* to adopt **Resolution No. 2010-227** adopting the Transit Yard Master Plan and the Corporation Yard Facilities Master Plan. ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Detrick).***

Note: Vice Mayor Detrick returned at 8:11 p.m.

Agenda Item No. 10.4: Consider a resolution approving the allocation of up to 324 Sewer Fee Credits to the Sacramento County Water Agency for the Vineyard Water Treatment Plant

RECOMMENDATION:

Review a request from the Sacramento County Water Agency for Economic Development Treatment Capacity Bank Credits and, if appropriate, approve a resolution allocating these credits.

Heather Ross, Economic Development Coordinator, provided an overview of the staff report and recommendation. The request was from the Sacramento County Water Agency (SCWA) for up to 324 Sewer Fee Credits for the proposed Vineyard Water Treatment Plant. The treatment facility was in SCWA's long-term master plan, and periodically the County sets its impact fees with some basis on the long-term capital improvement plan, where award of the credits by the City to SCWA could possibly lower fees. She noted SCWA's request for 324 credits would consume 30% of the remaining City credit bank.

Council Member Cooper observed that the City comprised only 32% of the total area served by the water treatment plant, and suggested that, as the item was not time sensitive, to evaluate what response other regional agencies offered, in the form of credits, to determine an appropriate response by the City commensurate with neighboring agencies that were also served by the treatment plant.

PUBLIC COMMENT:

None.

By Council consensus, consideration of the item was continued to a date uncertain.

Agenda Item No. 10.5: Consider appointment of one member to the Historic Preservation Committee

RECOMMENDATION:

Appoint one member to the Historic Preservation Committee.

Jason Lindgren, City Clerk, provided an overview of the staff report and recommendation.

PUBLIC COMMENT:

None.

Motion: *M/S Hume/Detrick* to adopt **Resolution No. 2010-228** appointing Linda Williams as a regular member of the Historic Preservation Committee. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

NOTE: The City Council convened to the Regular Redevelopment Agency meeting of October 27, 2010 to order at 8:24 p.m. Mayor Scherman and Council Member Hume left the meeting at 8:26 p.m. The Regular City Council meeting was reconvened at 8:27 p.m. with Mayor Scherman and Council Member Hume absent.

ADJOURNMENT

With no additional business to conduct, the October 27, 2010 City Council meeting was adjourned in memory of Daniel Harry, Greg Cochran, and Allan Bowie Detrick, Sr. at 8:27 p.m.


JASON LINDGREN, CITY CLERK

ATTEST:


SOPHIA SCHERMAN, MAYOR