

**MINUTES OF THE CITY COUNCIL
REGULAR MEETING
Wednesday, December 14, 2011**

CALL TO ORDER / ROLL CALL

Mayor Detrick called the regular City Council meeting of December 14, 2011 to order at 6:01 p.m.

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

Absent: None.

Council Member Scherman led the Pledge of Allegiance.

Mayor Detrick requested the community reflect on those lost over the course of the 2011 year, and asked that a moment of silence be observed.

SPECIAL ACTION ITEM: Reorganization of the Elk Grove City Council

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

RECOMMENDATION

Reorganize the Elk Grove City Council:

- 1) By motion select the Mayor
- 2) By motion select the Vice Mayor

Mayor Detrick expressed thanks to the City Council, staff, and citizens, for supporting his term as mayor for the past year. He believed that as all five members of the City Council had served as mayor and vice mayor in the past, he recommended the organization of the City Council remain the same for the upcoming year.

PUBLIC COMMENT:

Paul Lindsay believed the mayor appointment should be for an individual who would not be in a political contest, noting four members would be running for elective office in 2012. Mr. Lindsay supported nomination of Patrick Hume as mayor.

Council Member Davis supported the ascension of the vice mayor to mayor.

Council Member Scherman agreed with statements made under public comment that the office of mayor should not be held by a member running for office.

Council Member Hume noted his willingness to accept a nomination for mayor, and believed the office of mayor should not be used as a campaign tool for anyone seeking

elected office, noting he was the only council member who would not be in an election in 2012. He did not agree with the suggestion to have consecutive years service as mayor, and believed an alphabetical rotation best served as a standard for appointment, taking into account circumstances of individuals going into an election contest.

Mayor Detrick observed that potentially any member could be in a contest for an elected office, as the filing period for nominees did not conclude until August 2012.

Motion #1: M/S Davis/Detrick to appoint James Cooper as Mayor. *The motion passed by the following vote: Ayes: 3; Noes: 2 (Hume, Scherman).*

Motion #2: M/S Scherman/Detrick to appoint Patrick Hume as Vice Mayor. *The motion passed by the following vote: Ayes: 4; Noes: 1 (Cooper).*

RECEPTION

NOTE: The City Council recessed at 6:19 p.m. for a reception to recognize the City Council reorganization. The regular City Council meeting reconvened at 6:33 p.m. with Mayor Cooper presiding, and all Council Members present.

APPROVAL OF AGENDA

Motion: M/S Davis/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 Mayor Cooper and Council Member Detrick presented recognitions to the JumpStart 21 Basketball Tournament Champions Ruthie Bolton, Dan Elliott, Jessica Wilson, Alex Vandyke, Brian Detrick, and Dan Goldman.

4.2 Youth Commissioners provided an update on the Youth Commission.

With the aid of an overhead presentation (filed), members of the Youth Commission reported a summer Youth Commission retreat was held in July where they conducted team building activities, welcomed new commissioners, reviewed City policies, reviewed roles within the Youth Commission, and brainstormed issues facing teens in Elk Grove. A Teen Town Hall Forum was held in October to address topics raised by teens as identified through 159 surveys received from students in schools around the Elk Grove Unified School District. The top three topics identified at the forum and from the surveys related to sex, drugs and issues relating to school in general, and after discussion the Youth Commission found that many of the items were connected to self esteem. As a result, the Youth Commission decided to plan an event called *The Power of One Project*, with the message "one choice, one moment, one life," for youth to reflect on how they feel about themselves and the choices they make in life. The forum planned to have work groups and to invite speakers to address topics of personal esteem and

the influence of relationships. The Youth Commission planned to apply to the Grants Advisory Board for Youth (GABY) to fund the *The Power of One Project*. They noted they had created a group on Facebook to provide updates on events involving the Youth Commission and the community, and had been connecting with schools within the Elk Grove Unified School District to set up text message alerts.

PUBLIC COMMENT

Leo Fassler commended City staff on bringing signage to the rural area. Mr. Fassler announced that members of Greater Sheldon Road Estates Homeowners Association (GRESHA) and the Sheldon Community Association (SCA) would continue a program of planting valley oak trees for a fourth year, planting 850 trees with the assistance of the Sacramento Municipal Utility District (SMUD) and the Sacramento Tree Foundation.

Orlando Fuentes, Chair of the Multicultural Committee, introduced committee members in attendance Scott Matsumoto, Andres Ramos, and Norm DeYoung, and provided an overview of recent meetings and the responsibilities of the Multicultural Committee. He noted the focus of committee was to plan for a festival to be held in 2012, to promote understanding of diversity, and increase communication in the community.

Robert Faulkner requested the City Council reconsider regulations on recreational vehicle parking. He noted recent action by the Code Enforcement Department citing 20 vehicles in a particular area of the City, all of which had been compliant prior to the recent Zoning Code amendments. He believed several older home lot designs better accommodated for the parking of recreational vehicles, with larger driveways and setbacks providing adequate room for parking and storage. He believed exemptions should be allowed for homeowners who were legally conforming prior to the recent Zoning Code amendments, who had invested in previously allowed property improvements to store recreational vehicles, who parked in a manner compliant with other codes of the City, and who were compliant with neighborhood Covenants, Codes, and Restrictions. He noted some owners were reluctant to park recreational vehicles in paid, off-site storage sites, citing examples of theft and damage. Mr. Faulkner believed the recent amendments regarding recreational vehicles were more appropriate for development of the last decade that utilized more compact property layouts and home designs.

Norm DeYoung and Bob Dayton presented an award to the City Council on behalf of the Elk Grove Veterans Day Parade Committee in appreciation of their continued support of the event over the years.

Council Member Scherman noted that every year during the Veterans Day Parade the names of veterans were read. The past year 462 names were read, and Ms. Scherman encouraged members of the community to forward names of veterans to be recognized.

Lynn Wheat reviewed comments she had provided when the Environmental Impact Report and General Plan were adopted, noting her disappointment that the proposed plans incentivized development, and did not protect open spaces and aspects improving area quality of life. She did not believe the City was planned or planning well, and requested a renewed effort toward City planning to evaluate the current economy,

resident feedback, generational perspectives, and City committees for visions and goals to incorporate into citywide planning documents.

Connie Conley presented a recognition to Council Member Detrick on behalf of Elk Grove Community Connection acknowledging his service as mayor in 2011.

GENERAL ADMINISTRATION INFORMATION

City Manager Laura Gill reviewed the December 14, 2011 Administrative Report (filed).

COUNCIL COMMENTS / REPORTS / FUTURE AGENDA ITEMS

Council Member Detrick requested future items for consideration including policy review for requests of donation / in-kind sponsorship support for events held in the community, discussion of roadway dedications for commercial and industrial buildings of less than 5,000 square feet, and consideration of recreational vehicle parking as brought up during public comment. Mr. Detrick traveled to sister city Concepción de Ataco, experiencing the devastation of the disaster flood event, and received feedback from officials of the sister city for items and programs that could aid the community including small home construction, a garbage truck, a bus to transfer students, a student exchange program, and locating brokers to export the city's main product of coffee. He noted a current fundraiser was underway to raise funds to purchase toys for the children of Concepción de Ataco for Christmas. Mr. Detrick attended the Old Town Elk Grove Dickens' Street Faire, the volunteer police recognition event, the Carlton Plaza senior apartments groundbreaking, the Rural Road Sign unveiling, and expressed thanks to staff member Mona Schmidt for coordinating participation of youth attendees to the *Christmas Lights* charity action event for underprivileged children.

Vice Mayor Hume attended the Sacramento Regional Transit District (RT) Board meeting which reviewed the 2012 budget, and at the reorganization of the RT Board noted he was nominated as Vice Chair, and subsequently would serve as Chair in 2013. The Capital SouthEast Connector Joint Powers Authority board meeting received a presentation on the potential for a toll road to finance the project, and the board voted to decertify and re-circulate the Environmental Impact Report (EIR) as recent case law of other jurisdictions determined the baseline traffic modeling utilized was determined to be insufficient modeling. He attended the Sacramento Regional County Sanitation Board of Directors meeting receiving a fee and rate study on debt service to finance improvements required under the National Pollutant Discharge Elimination System (NPDES) permit, noting the rates for new connections ranged from \$7,500 up to \$35,000 per door fee, severely impacting fees imposed on new construction and business, and new rates for residential users would increase approximately \$65 a month. He noted the appeal of the NPDES permit was still pending. Mr. Hume attended the Rural Road Sign unveiling, the rural roads workshop, and the workshop for the East Stockton Boulevard Sound Wall.

Council Member Davis announced the "Running of the Elk" half marathon event on April 1, 2012 sponsored by Kaiser Permanente, in partnership with the Elk Grove Auto Mall, and coordinated by the Elk Grove Youth Sports Foundation. He requested the City be an in-kind sponsor of the event, noting that though there was agreement to

discuss a policy regarding event in-kind sponsorship support, that this event would occur soon, and asked the matter be considered at the mid-year budget review. Mr. Davis estimated \$5,000 would be needed for City in-kind services support.

Mayor Cooper noted consensus by the City Council to consider the request, but noted a policy would subsequently be established to ensure an equitable process to apply for in-kind support services of the City for any applicants desiring to hold such fundraiser events in the City.

Council Member Davis encouraged residents to shop local, noting that as the City relied on sales tax as a main source of revenue, every dollar spent locally was an investment back into the community. He also encouraged donating locally to community charities.

Council Member Scherman reported she had missed two recent regional board meetings due to illness. She noted 600 turkeys were collected for the Food Bank for their seasonal dinner distribution, she participated in the Toys-for-Tots program sponsored by the U.S. Marine Corps, collecting 75 toys for the project, and attended the Jessie Baker School Christmas Party sponsored by the Rotary Club of Elk Grove.

CONSENT CALENDAR ITEMS

Note: By City Council consensus Item 8.11 was pulled for separate discussion prior to consideration of the Consent Calendar items.

Agenda Item No. 8.11: Consider adopting a resolution authorizing the City Manager to execute a contract with Downtown Ford Sales of Sacramento to service and repair City vehicles for a three-year term (subject to extension) in an amount not-to-exceed \$396,000

Vice Mayor Hume suggested all bids be rejected and that a new Request for Quotations be issued reducing the qualification radius from 20 miles to 5 miles. He noted that when the economic development incentive agreement was approved for Elk Grove Ford to locate in the Elk Grove Auto Mall, it was observed that an added benefit would be the ability to maintain the City fleet locally. In addition, Mr. Hume noted that Elk Grove Ford was an active participant in the community sponsoring fundraiser events.

Motion: M/S Hume/Davis to adopt a resolution authorizing the City Manager to reject all bids, re-issue a new Request for Quotations (RFQ), and reduce the service radius. ***(This motion was not voted on, as a substitute motion was put forward later in the discussion of the item)***

Council Member Davis agreed with the statements of Mr. Hume, but believed options could be considered to address award of the contract.

PUBLIC COMMENT

Matt Wood, owner of Elk Grove Ford, noted the organization was involved and committed toward the betterment of the community, supporting numerous requests for donations and support to the community, which he did not believe was offered by any competitors responding to the RFQ. He believed the RFQ submitted was a competitive

bid, lower than the current rates under the existing contract. He expressed that keeping sales locally invested returned monies back into the City, and local investment maintained long-term financial goals to sustain businesses in the community. Mr. Wood believed the responses did not take into account the vehicle wear and fuel costs to have vehicles serviced transported to the Downtown Ford Sales of Sacramento facilities compared to local service at Elk Grove Ford.

Fleet and Facilities Manager Doug Scott addressed costs for travel of vehicles to service facilities, noting fleet vehicles averaged 10.5 miles per gallon, averaging a price of \$3.51 per gallon, and the distance to the facilities was 3.3-miles for Elk Grove Ford, and 17.7 miles for Downtown Ford Sales of Sacramento. Mr. Scott noted that overall the price difference between the two bids was approximately \$10,000 per year, under the three year term contract.

Interim City Attorney Jonathan Hobbs noted an alternative under the Elk Grove Municipal Code allowed that if the City Council made a finding that an award to the low bidder was not in the best interest of the City, and the best interest of the City was better served to award to someone other than the low bidder, such as the cited example to keep local sales tax dollars in the community, the City Council had the discretion to make the finding and award to someone other than the low bidder. He confirmed to Mayor Cooper that rejecting all bids and re-bidding the item remained as an option.

Cheryl Rouse and Jeff Stubblefield, representatives of Downtown Ford Sales of Sacramento, noted the company's history of service to the City to date, and in consideration of their current bid they believed a substantial savings was presented compared to bids received from other vendors.

Vice Mayor Hume questioned the basis for having the item originally put out to bid.

In reply to Mayor Cooper's statement to have all bids rejected and to re-bid the item, Council Member Davis believed the staff time and resources in re-issuing the bid accrued additional costs in processing, and he supported the motion making findings that it was in the best interest of the City to award the bid to Elk Grove Ford.

Substitute Motion: M/S Scherman/Davis to adopt Resolution No. 2011-227 as amended with stated findings made under City Council deliberation authorizing the City Manager to execute a contract with Elk Grove Ford to service and repair City vehicles for a three-year term (subject to extension) in an amount not-to-exceed \$396,000. The motion passed by the following vote: Ayes: 5; Noes: 0.

Note: The City Council returned to consider the remaining items on the Consent Calendar.

In reply to Council Member Detrick, Police Captain Bryan Noblett noted in relation to Item 8.15 that the existing contract with RedFlex Traffic Systems, Inc. obligated installation of an additional red light camera at another intersection location in the City. The City conducted a study of accident frequencies at intersections primarily on the east side of the City, as the area was underserved by the program, and Captain Noblett

confirmed that the proposed location for the new red light camera would be at the intersection of Elk Grove-Florin Road and Bond Road.

In relation to Item 8.29, Council Member Detrick noted there was resident concern of the item being placed on the consent calendar, he noted the item was early in the process to explore and initiate investigation of a Major League Soccer Facility.

Council Member Scherman noted the agreement was to establish exclusive negotiation rights and to engage discussions of feasibility of such a facility, and did not expend City funds.

PUBLIC COMMENT

None.

Motion: ***M/S Detrick/Scherman*** to approve the remainder of the Consent Calendar (excluding item 8.11 as prior action was taken on that item) as presented. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 8.1: Received September 2011 Treasurer's Report

Agenda Item No. 8.2: Received Automatic Clearing House Nos. 4403 through 4535 dated November 1, 2011 through November 30, 2011, General Warrant Nos. 62150 through 62577, and Electronic Fund Transfer Nos. 2012065 through 2012081

Agenda Item No. 8.3: Approved May 4, 2011 City Council Special 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 December 7, 2011

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

Agenda Item No. 8.6: **Ordinance No. 30-2011** adopted amending the City of Elk Grove Zoning Map from RD-15 to RD-7 and RD-8 to RD-7 and redistributing the boundaries of the zoning districts for the Laguna Ridge Phase 3 Subdivision Projects specifically affecting Assessor Parcel Numbers 132-0050-061 & -062 (Arbor Ranch); 132-0050-119, -128, & -131 (Zraggen Ranch) **(Second Reading)**

Agenda Item No. 8.7: **Ordinance No. 31-2011** adopted adding Elk Grove Municipal Code Chapter 12.05 to Title 12 defining responsibilities for sidewalk maintenance and replacement **(Second Reading)**

Agenda Item No. 8.8: **Resolution No. 2011-228** adopted authorizing the destruction of certain records retained by the Finance Department

Agenda Item No. 8.9: **Resolution No. 2011-229** adopted authorizing the City Manager to execute the necessary documents to extend the contract with KNN Public Finance for an additional three-year term

Agenda Item No. 8.10: Resolution No. 2011-230 adopted authorizing the City Manager to execute a contract with Elk Grove Buick GMC of Elk Grove to service and repair City owned General Motors vehicles for a three-year term (subject to extension) in an amount not-to-exceed \$50,000

Note: Item 8.11 was heard separately prior to consideration of the remainder of the Consent Calendar items.

~~**Agenda Item No. 8.11:** Consider resolution adopting authorizing the City Manager to execute a contract with Downtown Ford Sales of Sacramento to service and repair City vehicles for a three-year term (subject to extension) in an amount not to exceed \$396,000~~

Agenda Item No. 8.12: Resolution No. 2011-231 adopted authorizing the City Manager to execute a contract with The Sign Center of Elk Grove to install vehicle graphics onto City vehicles for a three-year term (subject to extension) in an amount not to exceed \$65,000

Agenda Item No. 8.13: Resolution No. 2011-232 adopted authorizing the City Manager to accept an appropriation from the California Office of Traffic Safety via the Citrus Heights Police Department to implement the Avoid the 17 DUI Program in an amount not-to-exceed \$138,000 and increase the Police Department's revenue and expense budget by the actual amount received

Agenda Item No. 8.14: Resolution No. 2011-233 adopted authorizing the City Manager to execute a purchase requisition with Dell Marketing , L.P. for the purchase of two Storage Area Network computers in an amount not-to-exceed \$83,000

Agenda Item No. 8.15: Resolution No. 2011-234 adopted authorizing the City Manager to execute the First Amendment to Contract No. C-07-188 with Redflex Traffic Systems, Inc. for red light camera operations for an additional two year period, including the installation of one additional red light camera system, and approval of a related records retention schedule

Agenda Item No. 8.16: Resolution No. 2011-235 adopted authorizing the City Manager to accept an appropriation from the State Supplemental Law Enforcement Services Fund (SLESF) in the amount of \$293,369 and increase the Police Department's revenue and expense budget by \$293,369

Agenda Item No. 8.17: Resolution No. 2011-236 adopted authorizing the City Manager to execute a one-year agreement with HTA Science & Engineering, Inc. for environmental studies and consulting services in an amount not-to-exceed \$60,000

Agenda Item No. 8.18: Resolution No. 2011-237 adopted approving Addenda 1 and 2 to the Elk Grove Boulevard / State Route 99 Interchange Modification Project Environmental Impact Report and approving the proposed project as modified by the addenda

Agenda Item No. 8.19: Resolution No. 2011-238 adopted authorizing the City Manager to execute a Reimbursement Agreement with the Sacramento County Water Agency for the Grant Line Road Widening Project

Agenda Item No. 8.20: Resolution No. 2011-239 adopted authorizing the City Manager to execute a consultant contract amendment with URS Corporation for the Elk Grove Creek Trail Crossing at State Route 99 Project in the amount of \$54,700 *[for a total compensation amount not-to-exceed \$1,084,130]*

Agenda Item No. 8.21: Resolution No. 2011-240 adopted approving Parcel Map No. 11-023 Jones Parcel Map

Agenda Item No. 8.22: Resolution No. 2011-241 adopted approving Parcel Map No. 10-026, Bakey Parcel Map

Agenda Item No. 8.23: Resolution No. 2011-242 adopted finding the Elk Grove Creek Outfalls and the Dry Well Installations Drainage Improvements Projects exempt from environmental review under the California Environmental Quality Act; authorizing the City Manager to execute a construction contract with Caggiano General Engineering for the Elk Grove Creek Outfalls and Dry Well Installations Drainage Improvements Project in the amount of \$42,500; authorizing the City Engineer to approve change orders not-to-exceed \$10,700; and authorizing the City Manager to execute a construction contract with the second lowest bidder if Caggiano General Engineering does not meet contract execution obligations

Agenda Item No. 8.24: Resolution No. 2011-243 adopted authorizing the City Manager to implement the Transit Advertising Policy

Agenda Item No. 8.25: Resolution No. 2011-244 adopted authorizing the City Manager to execute a Subrecipient Agreement with the Sacramento Area Council of Governments (SACOG) for the Automated Farebox Upgrade project

Agenda Item No. 8.26: Resolution No. 2011-245 adopted amending the Fiscal Year 2011-12 budget, allocating funds and authorizing the City Manager to execute a contract Creative Bus Sales for two paratransit buses, in an amount not-to-exceed \$165,000

Agenda Item No. 8.27: Resolution No. 2011-246 adopted approving the Annual Development Impact Fee Report for Fiscal Year 2010-11 and making findings as required by the Mitigation Fee Act

Agenda Item No. 8.28: Resolution No. 2011-247 adopted authorizing the amendment and restatement of the City of Elk Grove's governmental 457(b) deferred compensation plan to ensure compliance with applicable legislative and regulatory requirements

Agenda Item No. 8.29: Authorized the City Manager to sign an Exclusive Negotiating Agreement with Northern California Soccer, LLC for the siting and development of a Major League Soccer Facility

Agenda Item No. 8.30: Resolution No. 2011-248 adopted waiving the formal solicitation requirements per Elk Grove Municipal Code Section 3.42.180(B)3 and authorizing the City Manager to execute a contract with GFI Genfare for the purchase of electronic fareboxes and equipment in an amount not-to-exceed \$850,000

PUBLIC HEARINGS

Agenda Item No. 9.1: A public hearing to consider the appeal of the Planning Commission Action on a Variance for 10294 Wrangler Drive (EG-11-031; APN 134-0460-038)

RECOMMENDATION

Adopt resolution:

- 1) Finding that the Variance for 10294 Wrangler Drive is exempt from the California Environmental Quality Act pursuant to Section 15301 (Existing Facilities) of Division 6 of Chapter 3 of Title 14 of the California Code of Regulations (State CEQA Guidelines) based upon the findings contained in the December 14, 2011 staff report; and
- 2) Approving a Variance from setback standards for an accessory structure at 10294 Wrangler Drive, pursuant to the findings and contained in the December 14, 2011 staff report, and finding that the structure is a legal structure conforming to the City's Municipal Code.

Mayor Cooper declared the public hearing open.

With the aid of an overhead presentation (filed), Christopher Jordan, Planning Manager, provided an overview of the staff report and recommendation. The item was an appeal of the Planning Commission action on a variance of the property at 10294 Wrangler Drive. The requested variance would address a setback issue for an existing structure on the property, measuring 3,700 square feet total, 1,200 of living area and 2,500 of garage space (these measurements were a correction from what was printed for square foot sizes in the staff report), 28 feet in height, with a setback of 11 feet. The current Zoning Code required a setback equal to height of the structure. Mr. Jordan displayed an aerial photo of the property displaying existing structures on the property. In August 2008 a building permit was issued for construction as a second dwelling with the attached garage. The structure complied with the standards in effect at the time, which then only required a five foot setback. Prior to the issuance of that building permit a fee waiver was considered by the City Council and approved. A request for an appeal of the building permit decision was filed by Mr. Michael Hardy, a neighbor adjacent to the project site, the appeal was not granted, and a lawsuit was filed against the City November 2008. The court found the appellant was entitled to appeal, and that judgment was issued in April 2011. The development standards in 2008 for a second dwelling unit required 30 foot front setbacks, five foot interior setbacks, and ten foot setbacks between structures. If the structure was categorized as an accessory structure, the standards required 30 foot front setbacks, the height of the structure for interior setbacks, and six foot setbacks between structures. Commencing October 2008 (and effective November 2008) the City Council adopted changes to the Zoning Code relative to the requirements and standards for second dwelling units including that the definition of a second dwelling unit specifically required a kitchen, defined what

constituted a kitchen, and modified the interior setbacks in Agricultural (AG) and Agricultural Residential (AR) zoned districts to be equal to or greater than the height of the structure, similar to the requirement on accessory structures. The neighbor's appeal of the zoning clearance for the building permit was considered by the Planning Commission July 2011, and the Planning Commission upheld the appeal based upon the fact that the structure that exists today did not comply with the development standards that exist in the current municipal code. The structure was found nonconforming, and the variance would allow the structure to be deemed conforming. The project does not comply with the setback standards that exist today, but did comply with the setback standards that existed at the time of the building permit issuance. To approve a variance, four findings with the Zoning Code and the Government Code were required, and staff added two other findings relating to the equities and the hardships the project owners have encountered throughout this process, and their good faith reliance and vested rights from the issuance of the building permit. Staff recommended approval of the variance.

Joe Henderson, project applicant, requested approval of the variance. He recollected the approvals granted in 2008, including plan approval by the Planning Department and action by the City Council allowing the addition to be classified as a second dwelling unit and waiving \$25,000 in impact fees. He felt that because the Planning Commission did not hear the appeal in September 2008 it led to subsequent events necessitating having this item under consideration today. Mr. Henderson noted the original building permit was finalized in 2009, and expressed frustration that the item continued under consideration to date, including this appeal and recent denial of the variance request by the Planning Commission. He provided photos (filed) displaying visual site conditions along with a timeline of events relating construction phases, halted construction based on City direction, amendments to the permit application, the timing of the original appeal against the project, and actions taken by the City regarding the permit. He noted construction was halted for over 18 days after the final date for the City to receive an appeal, and the determination that an appeal would not be granted, before pouring the foundation of the structure. Construction then proceeded to build the property to the code at the time. Mr. Henderson displayed efforts to screen the structure by planting 19 trees, showing slides that the building was not visible from the neighbor's driveway entrance. He noted that when the City municipal code changed in November 2008, that same day the lawsuit was filed against himself and the City, and he questioned the motives why such a suit was filed three months after the permit was issued, citing that much of the construction of the structure was completed at that point. The final permits were issued March 2009, and at that point the building was occupied by family members who had been in residence there since. Mr. Henderson believed he had worked in trust with the City in finalizing the permit, and believed the issue surrounding the matter was that the City did not hear the appeal of Mr. Hardy. He believed that had the appeal been heard back in 2008, the appeal would have been denied, and the permit would have been deemed compliant based on the codes existing at that time. Two years passed until the ruling of the superior court was issued that the appeal should have been heard, and since that time the codes had changed resulting in a negative impact on the project structure. He stated he had performed substantial work and incurred liabilities in good faith based on reliance upon the permit issued by the City, and he believed he had a vested right to complete the construction in accordance with the issued permit. He noted efforts to ensure that the project was built to match the

home that was on the property, and that the process to date had taken a toll on his family. Mr. Henderson requested support of the request for the variance, and noted he submitted his variance and appeal fees under protest, requesting the fees be refunded.

Michael Hardy, neighbor in opposition of the project, requested Mayor Cooper and Council Member Detrick recuse themselves from further involvement on the matter to avoid the appearance of potential conflicts of interest. He also requested the matter be continued and that any discussions relating to this matter that occurred in closed session be reviewed. Mr. Hardy cited that Mr. Cooper had never disclosed he had a longstanding relationship with the Henderson family, stating that within months of the fee waiver granted in 2008 that Mr. Cooper's daughter secured a spot to the Lady Magic competitive softball team, coached by Mr. Henderson. He cited that Mr. Detrick's wife, a real estate agent in the local area, listed a reference on her website to Joe Henderson for home loan prequalification. Mr. Hardy believed business relationships existed that financially benefitted all parties.

Interim City Attorney Jonathan Hobbs noted he had been made aware of the issues Mr. Hardy raised and found no disqualifying conflicts of interest that would require Mayor Cooper or Council Member Detrick to recuse themselves from the proceedings.

Mayor Cooper stated he would hear the matter and be impartial. He acknowledged that Mr. Henderson was one of two coaches of his daughter's softball team, and stated that he paid no money to Mr. Henderson, nor received anything from Mr. and Mrs. Henderson.

Council Member Detrick stated that knowing people in the community did not constitute grounds to require recusal from considering an item, and affirmed he would hear the matter.

Mr. Hardy believed the request for variance should be denied, that the consideration of the appeal should remain focused on the setback requirements of the Zoning Code, and that in the item presented the City was attempting to reintroduce arguments that had already been decided upon and were time barred from being appealed or reconsidered. He contended that the actions of the court invalidated the permit, creating a scenario that there was no permit for the structure, and that vested rights could not be received without a validly issued permit. He believed staff was trying to circumvent the court ruling in utilizing a variance. Regarding the decision to grant a variance he noted four findings based on substantial evidence were required to justify the variance, and under comments submitted previously in writing (filed), Mr. Hardy read the submitted letter detailing why such findings could not be made, and circumstances surrounding the originally submitted permit application and the progression of construction at the project site. He believed the Hendersons were aware of the Zoning Code requirements, that they knew a pending code change was in process that might change the zoning classification when the appeal was filed, and that they had knowledge they could not rely on a permit until all potential, known contests of that permit were resolved. He felt the final opportunity to hear whether the structure was legally conforming was at the July 2011 appeal hearing, where no determination was made as to the conformance of the structure at the time of issuance, and the Planning Commission applied the current Zoning Code standards and revoked the permit. He believed staff continued to

misrepresent the facts of the case and applicable standards in an effort to cover up for past mistakes. Mr. Hardy did not believe there was anything unique about the property that warranted the issuance of a variance.

Vice Mayor Hume believed the process surrounding the matter was flawed, but in review of the checkpoints along the way, it appeared that the City upheld the permit, subsequently moving the project forward. He did not know the basis of the original appeal denial, or the reason for the length of time elapsed for the court case that saw changes to the Zoning Code; but Mr. Hume stated he also did not understand the reason for opposing and wanting to demolish the project, as the site offered beautiful amenities, attempted to mitigate impacts to neighboring properties, was not in proximity to neighboring primary residences, and likely improved values of the neighborhood. Vice Mayor Hume sought whether or not Mr. Hardy had been damaged by the actions of Mr. Henderson or by the actions of the City.

Mr. Hardy felt the central issue regarded compliance and conformance with the code. He believed the structure never should have been allowed. He stated he did feel the project affected the value of his property, as when he entered his property he had to pass by a 30 foot tall building within 11 feet of the property line. He noted the building had two segments, and he did not have issue with the second dwelling unit, but it was the 2,500 square foot garage that was 11 feet off the property line. He believed the blame was on the City, and efforts to date have been means to circumvent the code through re-writing code sections, fee waivers, and inconsistent application of the code. In reply to Vice Mayor Hume, he noted that as a property owner he had rights to contest the matter, regardless of whether he resided at the adjacent property or not. He held that the timing of hearing the original project fee waiver, the code changes initiated, and the timing of his original appeal all occurred in a very compacted amount of time, and as he was appealing the staff interpretation of the code, he believed the appeal remained effective and timely, regardless of the time the issue was considered by the court. He also believed that as the code changes had been initiated, it would not have been possible for his appeal to be heard prior to the code changes taking effect, and had his appeal been heard in a timely manner the code revisions would apply and the building would be found non-conforming. He believed it was clear he had submitted an appeal, and a project could not continue in good faith knowing opposing actions were submitted.

PUBLIC COMMENT:

Michael Parske read a letter (filed) from Becky Dolin, a neighbor who resided in the vicinity of the project, in support of granting the variance.

Ron Suter, a neighbor in vicinity of the project, voiced support to grant the variance. He believed the Hendersons had followed the direction of the City and put forth a substantial investment. He believed the Henderson property did increase the value of his property, and believed the majority of the residents appreciated the improvements on the Henderson property.

Nikki Carpenter believed all citizens should be held to abide by the code requirements in place, including proper placement of structures on their property. She submitted a copy of a flier (filed) circulated regarding a home for sale in her neighborhood that she

believed served as an example of the ill effects of when a rural acreage was allowed to be overbuilt. She believed the City Council had repeatedly allowed exemptions and variances in particular instances, while others in the rural community had been required to comply with the payment of fees and adherence to code regulations, creating inconsistency in the application of the code. Ms. Carpenter believed the Hendersons had full knowledge that court filings had been submitted opposing the project, should not have proceeded, and believed the non-conforming structure should be dismantled or removed to another part of the property.

Mr. Hardy repeated the item was not related to the aesthetics of the project, but rather the application of the code. In order to allow a variance from the code four findings needed to be made identifying unique aspects about that property that did not allow construction of the structure anywhere else, and he did not believe the four findings could be identified for the property.

Mr. Henderson noted he proceeded in good faith throughout construction of the project, complying with direction from the City and requested approval of the variance.

Mayor Cooper declared the public hearing closed.

Vice Mayor Hume believed the applicant proceeded in good faith based on direction from the City. He voiced support of Mr. Henderson receiving his variance fee back as he did not believe Mr. Henderson did anything that should have required him to spend extra monies on the project. He believed the condition of the property was relevant as codes were in place to prevent injury to others, and he did not view this project as lessening someone else's enjoyment of their property, as attested to by neighbors and the site conditions. Mr. Hume believed there were unique circumstances to make the required findings.

Council Member Detrick believed a "grandfather" clause should be implemented when code changes occurred and existing projects had already broken ground and were under construction. He agreed with statements to waive the fee for the variance.

Motion: M/S Hume/Scherman to adopt **Resolution No. 2011-249**: 1) finding that the Variance for 10294 Wrangler Drive is exempt from the California Environmental Quality Act pursuant to Section 15301 (Existing Facilities) of Division 6 of Chapter 3 of Title 14 of the California Code of Regulations (State CEQA Guidelines) based upon the findings contained in the December 14, 2011 staff report; and 2) approving a Variance from setback standards for an accessory structure at 10294 Wrangler Drive, pursuant to the findings and contained in the December 14, 2011 staff report, and finding that the structure is a legal structure conforming to the City's Municipal Code. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Note: Council Member Davis left at 9:09 p.m.

Agenda Item No. 9.2: A public hearing to consider a Specific Plan Amendment to the Laguna Ridge Specific Plan and a Rezone of approximately 4.14 acres from Shopping Center (SC) to Auto Commercial (AC) at 8400 Auto Passage Drive and 8401 Lotz Parkway (EG-11-038; APNs: 132-0110-036 and -047)

RECOMMENDATION

The Planning Commission recommends (5-0):

- 1) Adopt resolution finding no further review required for the Lasher Auto Group Specific Plan Amendment and Rezone project (EG-11-038), under the California Environmental Quality Act pursuant to §15183 of Division 6 of Chapter 3 of Title 14 of the California Code of Regulations; and
- 2) Adopt resolution approving a Specific Plan Amendment to change the designation at 8400 Auto Passage Drive and 8401 Lotz Parkway (APN: 132-0110-036; and -047, respectively) from Shopping Center (SC) to Auto Commercial (AC); and
- 3) Introduce and waive the full reading, by substitution of title only, an Ordinance amending the City of Elk Grove Zoning Map from Shopping Center (SC) to Auto Commercial (AC) for the Lasher Auto Group Project No. EG-11-038, Assessor's Parcel Numbers 132-0110-036 and -047.

Mayor Cooper declared the public hearing open.

The verbal staff report was waived.

PUBLIC COMMENT:

None.

Mayor Cooper declared the public hearing closed.

Motion #1: M/S Hume/Detrick to adopt **Resolution No. 2011-250 finding no further review required for the Lasher Auto Group Specific Plan Amendment and Rezone project (EG-11-038), under the California Environmental Quality Act pursuant to §15183 of Division 6 of Chapter 3 of Title 14 of the California Code of Regulations. ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Davis).*****

Motion #2: M/S Hume/Detrick to adopt **Resolution No. 2011-251 approving a Specific Plan Amendment to change the designation at 8400 Auto Passage Drive and 8401 Lotz Parkway (APN: 132-0110-036; and -047, respectively) from Shopping Center (SC) to Auto Commercial (AC). ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Davis).*****

Motion #3: M/S Scherman/Hume to introduce and waive the full reading, by substitution of title only, **Ordinance No. 32-2011 amending the City of Elk Grove Zoning Map from Shopping Center (SC) to Auto Commercial (AC) for the Lasher Auto Group Project No. EG-11-038, Assessor's Parcel Numbers 132-0110-036 and -047. ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Davis).*****

Agenda Item No. 9.3: A public hearing to consider approval of a Rezone from AR-5 to AR-2 and a Tentative Parcel Map for the Albiani Justamere Parcel Map Project (EG-10-019)

RECOMMENDATION

The Planning Commission recommended (4-1, no Murphey, *at the Planning Commission meeting of April 7, 2011*):

- 1) Adopt a resolution finding the Albiani Justamere Parcel Map Project (EG-10-019) exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 (Minor Divisions of Land) of Division 6 of Chapter 3 of Title 14 of the California Code of Regulations (State CEQA Guidelines) subject to the findings contained in the December 14, 2011 staff report;
- 2) Introduce and waive the full reading, by substitution of title only, an Ordinance amending the City of Elk Grove Zoning Map from AR-5 to AR-2 for the Albiani Justamere Parcel Map Project No. EG-10-019, Assessor's Parcel Number 127-0080-049; and
- 3) Adopt a resolution approving a Tentative Parcel Map for the Albiani Justamere Tentative Parcel Map Project (EG-10-019) subject to the findings and conditions of approval contained in the December 14, 2011 staff report.

Mayor Cooper declared the public hearing open.

Christopher Jordan, Planning Manager, provided a brief overview of the staff report and recommendation. He noted the item was last heard in the spring of 2011, and the applicant had since requested and completed a biological survey of the project site. The study indicated the property did not qualify as significant habitat for Swainson's hawk, and qualified for an exemption under the California Environmental Quality Act (CEQA).

PUBLIC COMMENT:

None.

Note: Council Member Davis returned at 9:12 p.m.

Mayor Cooper declared the public hearing closed.

Motion #1: *M/S Scherman/Detrick* to adopt **Resolution No. 2011-252** finding the Albiani Justamere Parcel Map Project (EG-10-019) exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 (Minor Divisions of Land) of Division 6 of Chapter 3 of Title 14 of the California Code of Regulations (State CEQA Guidelines) subject to the findings contained in the December 14, 2011 staff report. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Motion #2: *M/S Scherman/Detrick* to introduce and waive the full reading, by substitution of title only, **Ordinance No. 33-2011** amending the City of Elk Grove Zoning Map from AR-5 to AR-2 for the Albiani Justamere Parcel Map Project No. EG-10-019, Assessor's Parcel Number 127-0080-049. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Motion #3: *M/S Scherman/Detrick* to adopt **Resolution No. 2011-253** approving a Tentative Parcel Map for the Albiani Justamere Tentative Parcel Map Project (EG-10-019) subject to the findings and conditions of approval contained in the December 14, 2011 staff report. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 9.4: A public hearing to consider a Rezone, Design Review, Variance, and Minor Deviation for the BP Arco project (EG-08-060)

RECOMMENDATION

The Planning Commission recommends (5-0):

- 1) Adopt resolution finding the BP Arco project (EG-08-060) exempt from the California Environmental Quality Act (CEQA) pursuant to the California Code of Regulations, Title 14, Chapter 3 Sections 15332 and 15183; and
- 2) Introduce and waive the full reading, by substitution of title only, an Ordinance amending the City of Elk Grove Zoning Map from Limited Commercial (LC) to Shopping Center (SC) for the BP Arco Project No. EG-08-060, Assessor's Parcel Number 132-0410-040; and
- 3) Adopt resolution approving a Design Review, Variance, and Minor Deviation for the BP Arco project (EG-08-060), subject to the Findings in the Resolution.

Mayor Cooper declared the public hearing open.

The verbal staff report was waived.

PUBLIC COMMENT:

None.

Mayor Cooper declared the public hearing closed.

Council Member Scherman raised concern about the driveways and ingress and egress from the property, noting on the east side the turn onto Elk Grove Boulevard and the merge lane to State Route 99 were impacted lanes, potentially creating traffic related issues.

Engineering Services Manager Darren Wilson noted that driveway would be ingress only, and along with the right-turn pocket lane, would remain out of the through-lanes of Elk Grove Boulevard.

Motion #1: M/S Detrick/Davis to adopt Resolution No. 2011-254 finding the BP Arco project (EG-08-060) exempt from the California Environmental Quality Act (CEQA) pursuant to the California Code of Regulations, Title 14, Chapter 3 Sections 15332 and 15183. The motion passed by the following vote: Ayes: 5; Noes: 0.

Motion #2: M/S Detrick/Davis to introduce and waive the full reading, by substitution of title only, Ordinance No. 34-2011 amending the City of Elk Grove Zoning Map from Limited Commercial (LC) to Shopping Center (SC) for the BP Arco Project No. EG-08-060, Assessor's Parcel Number 132-0410-040. The motion passed by the following vote: Ayes: 5; Noes: 0.

Motion #3: M/S Detrick/Davis to adopt Resolution No. 2011-255 approving a Design Review, Variance, and Minor Deviation for the BP Arco project (EG-08-060), subject to the Findings in the Resolution. The motion passed by the following vote: Ayes: 5; Noes: 0.

Agenda Item No. 9.5: A public hearing to consider: **A)** adoption of resolutions calling a special election and declaring results of the special election for annexation to

Community Facilities District No. 2006-1 (Maintenance Services) and introduction of an ordinance levying and apportioning the special tax to the annexing area (Annexation No. 21); **B)** adoption of resolutions calling a special election and declaring results of the special election for annexation to Community Facilities District No. 2003-2 (Police Services) and introduction of an ordinance levying and apportioning the special tax to the annexing area (Annexation No. 21); and **C)** adoption of resolution determining to levy street maintenance assessments for certain properties in the Eastern Area which represents Annexation No. 17 into Street Maintenance District No. 1 – Zone 3-F

RECOMMENDATION

- A-1) Adopt resolution calling a special election to submit the question of levying a special tax within the area proposed to be annexed to Community Facilities District No. 2006-1 (Maintenance Services) to the qualified electors;
- A-2) (*Following tabulation and certification of ballot results by the City Clerk*) Adopt resolution declaring the results of the special election held on December 14, 2011 for the twenty-first annexation to Community Facilities District No. 2006-1 (Maintenance Services); and
- A-3) Introduce and waive the full reading, by substitution of title only, an ordinance levying and apportioning the special tax in territory annexed to Community Facilities District No. 2006-1 (Maintenance Services) Annexation No. 21; **AND**
- B-1) Adopt resolution calling a special election to submit the question of levying a special tax within the area proposed to be annexed to Community Facilities District No. 2003-2 (Police Services) to the qualified electors;
- B-2) (*Following tabulation and certification of ballot results by the City Clerk*) Adopt resolution declaring the results of the special election held on December 14, 2011 for the twenty-first annexation to Community Facilities District No. 2003-2 (Police Services); and
- B-3) Introduce and waive the full reading, by substitution of title only, an ordinance levying and apportioning the special tax in territory annexed to Community Facilities District No. 2003-2 (Police Services) Annexation No. 21; **AND**
- C) Adopt resolution determining to levy assessments in Street Maintenance District No. 1 – Zone 3-F (Annexation 17).

The verbal staff report was waived.

Mayor Cooper declared the public hearing open for Community Facilities District No. 2006-1 (Maintenance Services) Annexation No. 21.

PUBLIC COMMENT:

None.

Mayor Cooper declared the public hearing closed.

Motion #A-1: M/S Davis/Scherman to adopt **Resolution No. 2011-256** calling a special election to submit the question of levying a special tax within the area proposed to be annexed to Community Facilities District No. 2006-1 (Maintenance Services) to the qualified electors. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

City Clerk Lindgren announced of two possible votes, two affirmative votes were cast authorizing the City of Elk Grove to levy a special tax at the rate apportioned and described. The measure passed with more than two-thirds of all votes cast in the election in favor of the measure. A resolution declaring the results of the special election was available for Council consideration.

Motion #A-2: M/S Davis/Scherman to adopt Resolution No. 2011-257 declaring the results of the special election held on December 14, 2011 for the twenty-first annexation to Community Facilities District No. 2006-1 (Maintenance Services). *The motion passed by the following vote: Ayes: 5; Noes: 0.*

Motion #A-3: M/S Davis/Cooper to introduce and waive the full reading, by substitution of title only, Ordinance No. 35-2011 levying and apportioning the special tax in territory annexed to Community Facilities District No. 2006-1 (Maintenance Services) Annexation No. 21. *The motion passed by the following vote: Ayes: 5; Noes: 0.*

Mayor Cooper declared the public hearing open for Community Facilities District No. 2003-2 (Police Services) Annexation No. 21.

PUBLIC COMMENT:

None.

Mayor Cooper declared the public hearing closed.

Motion #B-1: M/S Davis/Scherman to adopt Resolution No. 2011-258 calling a special election to submit the question of levying a special tax within the area proposed to be annexed to Community Facilities District No. 2003-2 (Police Services) to the qualified electors. *The motion passed by the following vote: Ayes: 5; Noes: 0.*

City Clerk Lindgren announced of two possible votes, two affirmative votes were cast authorizing the City of Elk Grove to levy a special tax at the rate apportioned and described. The measure passed with more than two-thirds of all votes cast in the election in favor of the measure. A resolution declaring the results of the special election was available for Council consideration.

Motion #B-2: M/S Davis/Scherman to adopt Resolution No. 2011-259 declaring the results of the special election held on December 14, 2011 for the twenty-first annexation to Community Facilities District No. 2003-2 (Police Services). *The motion passed by the following vote: Ayes: 5; Noes: 0.*

Motion #B-3: M/S Davis/Scherman to introduce and waive the full reading, by substitution of title only, Ordinance No. 36-2011 levying and apportioning the special tax in territory annexed to Community Facilities District No. 2003-2 (Police Services) Annexation No. 21. *The motion passed by the following vote: Ayes: 5; Noes: 0.*

Mayor Cooper declared the public hearing open for Street Maintenance District No. 1 – Zone 3F (Eastern Area) Annexation No. 17.

PUBLIC COMMENT:

None.

Mayor Cooper declared the public hearing closed.

City Clerk Lindgren noted there was no majority protest. Of two possible votes, two affirmative votes were returned. The ballot approved the proposed assessment and the proposed inflation adjustment limit described for the parcels identified in the ballot. A resolution determining to levy assessments in the district was available for Council consideration.

Motion #C: M/S Davis/Detrick to adopt Resolution No. 2011-260 determining to levy assessments in Street Maintenance District No. 1 – Zone 3F (Annexation 17). The motion passed by the following vote: Ayes: 5; Noes: 0.

REGULAR AGENDA ACTION ITEMS / RECOMMENDATIONS

Agenda Item No. 10.1: Sister Cities Update

RECOMMENDATION:

Receive an update on the Sister Cities program and hear plans for establishment of a Sister Cities Council.

Kara Reddig, Assistant to the City Manager, provided an overview of the staff report and recommendation. Ms. Reddig noted that in August 2011 direction was given to explore creating Sister City Agreements with three different sister cities, Monichiari, Italy, Hailin, China, and Danglas, Philippines. Staff had been working with Monichiari and Danglas to establish agreements, but Hailin had expressed their desire to extend a longer courting engagement period before entering an agreement. A local effort has been initiated to create the Sister City Council, and a group of citizens had met regarding the SCC on December 8. Ms. Reddig reviewed an overhead presentation (filed), of Council Member Detrick's recent trip to Concepción de Ataco.

Council Member Detrick noted how appreciative the citizens of Concepción de Ataco were for the assistance provided, and the sentiment of international support from a sister city in support of the betterment of their community.

PUBLIC COMMENT:

None.

Agenda Item No. 10.2: Consider adopting two resolutions: 1) certifying an environmental impact report for the Storm Drainage Master Plan; and 2) approving the Storm Drainage Master Plan

RECOMMENDATION:

Adopt two resolutions:

- 1) Certifying an Environmental Impact Report for the Storm Drainage Master Plan; and
- 2) Approving the Storm Drainage Master Plan.

The verbal staff report was waived.

PUBLIC COMMENT:

None.

Vice Mayor Hume appreciated the goals set forth in the master plan to develop drainage facilities with aesthetic qualities and to be more than just water conveyance systems. He requested that when the Capital Improvement Plans were presented and actual costs of the dedication and improvement of those facilities were recommended for implementation that the item be revisited to ensure that the costs were equitable.

Engineering Services Manager Darren Wilson noted the next steps of the process were to evaluate alternatives and their requisite costs, and to involve the various stakeholders involved with those improvements.

Motion #1: M/S Hume/Scherman to adopt Resolution No. 2011-261 certifying an Environmental Impact Report for the Storm Drainage Master Plan. *The motion passed by the following vote: Ayes: 5; Noes: 0.*

Motion #2: M/S Hume/Scherman to adopt Resolution No. 2011-262 approving the Storm Drainage Master Plan. *The motion passed by the following vote: Ayes: 5; Noes: 0.*

Agenda Item No. 10.3: Consider resolution authorizing the Mayor to execute an Acquisition Agreement with JJV, LLC for privately-constructed facilities within the City of Elk Grove Community Facilities District No. 2005-1 (Laguna Ridge)

RECOMMENDATION:

Adopt resolution authorizing the Mayor to execute an Acquisition Agreement with JJV, LLC for privately-constructed facilities within the City of Elk Grove Community Facilities District No. 2005-1 (Laguna Ridge).

The verbal staff report was waived.

PUBLIC COMMENT:

None.

Motion: M/S Hume/Detrick to adopt Resolution No. 2011-263 authorizing the Mayor to execute an Acquisition Agreement with JJV, LLC for privately-constructed facilities within the City of Elk Grove Community Facilities District No. 2005-1 (Laguna Ridge). *The motion passed by the following vote: Ayes: 5; Noes: 0.*

Agenda Item No. 10.4: Consider introduction of an Ordinance amending Elk Grove Municipal Code Chapter 3.70 entitled "Utility Services Billing"

RECOMMENDATION:

Introduce and waive the full reading, by substitution of title only, an Ordinance amending Elk Grove Municipal Code Section 3.70.060 relating to Utility Services Billing.

The verbal staff report was waived.

PUBLIC COMMENT:

None.

Motion: M/S Hume/Detrick to introduce and waive the full reading, by substitution of title only, **Ordinance No. 37-2011** amending Elk Grove Municipal Code Section 3.70.060 relating to Utility Services Billing. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 10.5: Consider a resolution authorizing the City Manager to execute a Fee Deferral Agreement with Pappas Investments dba Laguna Springs Corporate Center Phase II, LLC

RECOMMENDATION:

Review and consider the proposed terms of a fee deferral agreement with Pappas Investments dba Laguna Springs Corporate Center Phase II, LLC (LSCC) and, if appropriate: Adopt resolution authorizing the City Manager to execute a fee deferral agreement with LSCC based upon alternate deferral terms not included in the current program.

Heather Ross, Economic Development Coordinator, provided an overview of the staff report and recommendation. The item was a follow-up to the September 2011 actions awarding incentives of \$3.3 million for the project that would bring the new headquarters for the California Correctional Healthcare Services to Elk Grove. Authorization was given to staff to engage in additional discussions for other potential incentives for the project. The item proposed was a fee deferral for the two additional buildings that will be constructed at the Laguna Springs Corporate Center. The fee deferral agreement was before the City Council for consideration as the applicant requested terms outside the scope of the currently adopted fee deferral program.

In reply to Council Member Detrick, Ms. Ross provided estimates on what interest charges would accrue on the loan under different scenarios. Under a proposed ten year term, consistent with the current program where the first three years were interest and payment free, the total interest paid to the City was approximately \$70,000. Under a conventional 10 year loan, with terms of quarterly payments at a 3% interest rate, the total interest paid was approximately \$980,000.

Council Member Detrick believed that for funds loaned the City should receive the nominal interest rate after the initial three years offered under the deferral program, having the applicant pay the interest for the remaining seven years of the proposed loan.

Ms. Ross noted the City's interest rate was based on the Local Agency Investment Fund (LAIF) apportionment rate, currently at 0.38%.

PUBLIC COMMENT:

None.

Council Member Davis supported the deferral agreement as requested, noting variations on deferral agreements, as requested by different businesses, had been previously been approved.

Motion: *M/S Davis/Scherman to adopt a resolution authorizing the City Manager to execute a fee deferral agreement with Pappas Investments dba Laguna Springs Corporate Center Phase II, LLC based upon alternate deferral terms not included in the current program. (This motion was not voted on, as a substitute motion was put forward)*

Substitute Motion: *M/S Detrick/Scherman to adopt Resolution No. 2011-264 authorizing the City Manager to execute a fee deferral agreement with LSCC based upon alternate deferral terms not included in the current program as presented in the staff report including charging a LAIF interest rate after year three for the remaining seven years of the agreement. The motion passed by the following vote: Ayes: 5; Noes: 0.*

Agenda Item No. 10.6: Receive an update and provide direction on the transit incentives for the California Department of Correctional Health Care Services

RECOMMENDATION:

Staff will be presenting the City Council with an overview of the transit incentives being developed for the California Department of Correctional Health Care Services (CCHCS) move to Elk Grove, and staff requests direction regarding the noticing of Fare Modifications and Service Adjustments to benefit the CCHCS project.

With the aid of an overhead presentation (filed), Tiffani Fink, Transit System Manager, provided an overview of the staff report and recommendation. The item was consideration of providing reverse commute transit service incentives for CCHCS employees. Surveys were distributed to the 1,500 CCHCS employees, 463 responses were received, and of the received surveys 215 respondents indicated they utilized transit at least once a week. From the survey responses, anticipated service needs were identified, primarily from downtown Sacramento to Elk Grove, and identified the need for an evening shuttle to Meadowview light rail station. In addition, local service would see 30 minute frequency routes between the new CCHCS facility and Cosumnes River College (CRC), which would see an increase in the transfers to Sacramento Regional Transit (RT) services, but would extend service to current *e-tran* passengers to access CRC. The proposed reverse commute takes advantage of empty buses returning from regular commuter service without requiring fleet expansion. A fare incentive was proposed offering a reverse commute fare of \$80 a month, compared to the current commuter monthly fare of \$100. The City was working with state agencies to encourage them to offer sales of *e-tran* passes to their employees, and CCHCS agreed to offer *e-tran* pass sales at their facility. Ms. Fink noted that when transit riders utilize an RT pass that roughly 50% of the fare used on that RT pass was transferred back to RT, if transit riders utilized an *e-tran* pass all of the fare would be retained by the City. The \$80 incentive was offered to encourage riders to purchase the *e-tran* pass so the City would yield a higher fare recovery. The reverse commute service had an estimated cost of \$190,000, with new fare revenue approximated at \$96,000 for a net

cost of \$94,000 for the new service. Since the fare incentive affects the system's fare structure, it was required to publicly notice the fare for consideration and adoption, targeted for the second meeting in February, which would allow the fare adjustment to take effect April 1.

Public Works Director Richard Shepard noted that discussions to implement a reduced billing rate for the reverse commute program with MV Transportation, Inc. (MV) had been difficult, and though previously empty return buses would be placed into active, billable service through the reverse commute program, the contract with MV established that any service increase would come in at a fixed rate.

In reply to Mayor Cooper, Interim City Attorney Jonathan Hobbs noted the City had denied a claim submitted by MV regarding another matter, and that MV had been invited to discuss that matter and provide additional information, but to date had not responded back to the City.

Ms. Fink provided detail of the estimated cost of \$190,000 to provide the reverse commute service, noting the contract was structured for the City to pay for three elements: 1) insurance, paid as a lump sum, 2) a fixed monthly cost for administrative costs, and 3) an hourly cost which was based on adding extra runs in revenue service, as well as two extra shuttles. The current "dead head" return of an empty commuter bus from Sacramento back to Elk Grove was generally built into the fixed rate cost that the City was not billed for.

Council Member Davis believed that in the capacity to turn "dead head" overhead costs into productive route time that a conversation could be had to negotiate a reduced operating price, as the current proposed program cost seemed high.

Ms. Fink noted the proposed service changes would remain within the established contract thresholds of 20% in difference of total vehicle service hours provided, and would not initiate automatic adjustments to billings in the contract.

PUBLIC COMMENT:

Jonathan Sanders, General Manager representing MV Transportation, Inc., stated MV was willing to discuss costs for providing the reverse commute service, and noted he was not privy to any recent claim filed by MV against the City.

Mayor Cooper voiced his disappointment over the lack of communication by management staff of MV, including the matter of the denied claim, and raised concern over the apparent high turnover of MV management staff. He did not feel MV was responsive to a number of issues raised by the City, and requested a report addressing MV staff turnover since entering the recent contract.

In reply to inquiries of the City Council, Ms. Fink noted that implementation of automated fare boxes would be able to differentiate fare mediums for particular routes, removing the capacity for commute passengers to use a reverse commute pass on regular commute routes. She noted that RT did not accept any City created fare media. No reverse commute routes were currently offered by the City to the Meadowview light

rail station or CRC transfer station, but numerous local City routes did serve CRC and one route went to Meadowview, offered between 5:30 p.m. and 8:30 p.m. She noted that from the survey results very few passengers were coming from the U.S. Highway 50 corridor, with the majority of ridership coming from downtown Sacramento. Commuter capacity of passengers coming from the Franchise Tax Board area was primarily limited to Franchise Tax Board employees, and not the surrounding area, noting the numbers did not support a reverse commute route to that destination. A final element of the survey related to origins of where riders interfaced with transit, noting a number of passengers drive to access transit service, and future evaluations could be conducted to locate areas for additional reverse commute options.

Council Member Detrick believed further evaluation of a reverse commute program at the Franchise Tax Board be considered if negotiations were able to identify a more cost neutral hourly rate.

Motion: M/S Detrick/Scherman 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.***

By City Council consensus, direction was given to pursue the reverse commute incentive fare rate, but to first negotiate on the service price with MV Transportation, Inc., and to return with an informational report prior to noticing fares.

Agenda Item No. 10.7: Consider approval of the report of delinquent public nuisance abatement costs and their collection on the tax roll

RECOMMENDATION:

Adopt two resolutions:

- 1) Establishing a new levy of costs related to nuisance abatement actions; and
- 2) Approving and confirming the report of delinquent special assessment and requesting Sacramento County to collect such charges on the Fiscal Year 2011-12 tax roll.

Shane Diller, Code Enforcement Manager, provided an overview of the staff report and recommendation. The item would establish a new levy, authorized under the California Government Code, to recover costs related to nuisance abatement through special assessment. Seven addresses would be levied initially. The costs were related specifically to services performed through abatement of the nuisance, and were not a recovery of fines that were related to the violations.

PUBLIC COMMENT:

None.

Motion #1: M/S Davis/Detrick to adopt **Resolution No. 2011-265** establishing a new levy of costs related to nuisance abatement actions. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Motion #2: M/S Davis/Detrick to adopt **Resolution No. 2011-266** approving and confirming the report of delinquent special assessment and requesting Sacramento

County to collect such charges on the Fiscal Year 2011-12 tax roll. ***The motion passed by the following vote: Ayes: 5; Noes: 0.***

Agenda Item No. 10.8: Sober Grad Night Sponsorship

RECOMMENDATION:

Provide direction regarding sponsoring sober grad night activities for seven local high schools that would each receive \$500 for a not-to-exceed amount of \$3,500.

Laura Gill, City Manager, provided an overview of the staff report and recommendation. In the previous year \$500 was provided to each of the seven high schools within or near the city limits to use for Grad Night celebrations.

PUBLIC COMMENT:

None.

By consensus the City Council approved sponsoring sober grad night activities for seven local high schools that would each receive \$500 for a not-to-exceed amount of \$3,500.

Agenda Item No. 10.9: Review Council appointments to regional boards, commissions, committees, and ad hoc committees

RECOMMENDATION:

Review Council appointments to regional boards, commissions, committees, and ad hoc committees and provide direction.

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

Council Member Davis voiced support for the appointments to remain as presented, but implementing the changes that occur for positions held by the Mayor and Vice Mayor for the recent reorganization.

PUBLIC COMMENT:

None.

By consensus the City Council confirmed transitioning positions held by the Mayor (Sacramento County Criminal Justice Cabinet, Economic Development Corporation Board of Directors, and Elk Grove Unified School District 2 x 2) and Vice Mayor (Elk Grove Unified School District 2 x 2), and approved continuing all remaining appointments to regional boards, commissions, committees, and ad hoc committees

Agenda Item No. 10.10: Appointment of representation to City Council Boards, Commissions and Committees, including announcement of appointments for current vacancies on the Disability Advisory Committee and Trails Committee

RECOMMENDATION:

Review Local Appointments List and consider appointments or reappointments on local boards, commissions, and receive information on appointments for current vacancies on the Disability Advisory Committee and Trails Committee.

Jason Lindgren, City Clerk, provided an overview of the staff report and recommendation. Mr. Lindgren noted a submitted a memo (filed) that additional applications had been received since the distribution of the agenda. The matter also recommended initiating a recruitment for two recent vacancies on the Multicultural Committee, seeking an appointment date of January 11, 2012.

PUBLIC COMMENT:

None.

Council Member Scherman appointed Robert Gray to the Trails Committee.


Mayor Cooper appointed Dawn Trimboli to the Disability Advisory Committee.

Mayor Cooper and Council Member Scherman authorized recruitment for two vacancies on the Multicultural Committee.

ADJOURNMENT


City Manager Laura Gill announced Director of Finance and Administrative Services Rebecca Carr would be leaving service with the City of Elk Grove. Ms. Gill noted Budget Manager Katy Baumbach would serve in an acting capacity as the Finance Director until the position could be filled, anticipated by February 2012.

With no additional business to conduct, the December 14, 2011 regular City Council meeting was adjourned in memory of Jack Campbell at 10:10 p.m.



JASON LINDGREN, CITY CLERK

ATTEST:



JAMES COOPER, MAYOR