

City of Elk Grove
Memorandum of Understanding
Public Meeting
Tuesday, March 16, 2010, 6:30 p.m. – 8:00 p.m.

Welcome and Introductions

Don Hazen, City of Elk Grove Planning Director
Robert Sherry, Sacramento County Planning Director
Taro Echiburu, City of Elk Grove Environmental Planning Manager
Gerald Park, City of Elk Grove Senior Planner
Pam Johns, Facilitator
Don Nottoli, Sacramento County Supervisor District 5

Meeting Summary

Removal of the SOI from the floodplain was a common message at this meeting and staff addressed this concern, letting attendees know that it would be a topic of discussion at the City Council meeting on April 14th. Another common suggestion was to include a clause in the MOU that restricts development in the SOI area until a certain percentage (recommended at 80%) of existing developable vacant lands within the City has been built out.

Some attendees were also concerned about consistency between the SOI and the SSHCP, as well as the legality of the MOU. A few people also commented that the City/County needs to conduct an environmental review prior to any consideration of adopting the MOU.

Additionally, some attendees pointed out that the MOU does not address water shortages in the area, and felt strongly that there needed to be a groundwater management plan in place before consideration of the MOU.

Meeting Minutes

Slide Presentation

Purpose of Meeting

- Joint City/County meeting relative to City SOI request.
- Soliciting comments directly on draft MOU.
- Comments will be addressed as they come up.
- Helpful that input is what you do/don't like about MOU document, and provide suggestions for document modification.

Background of MOU & Joint Vision

- When City filed SOI, it was necessary to coordinate with both jurisdictions.
- (refer to PowerPoint presentation)
- This reflects the boundary currently on file with LAFCo (point to map on wall).
- We've had a broad range of comments, it's impossible to have the document contain everything, but the Board and City Council have all comments from the listening sessions.
- City Council will take up issue of should SOI be removed from floodplain at April 14 meeting.

How will MOU be used?

- It is a public statement on principles, roles and what future of area will look like.
- This agreement (if signed) isn't contingent on SOI application before LAFCo.
- It is going to be something taken to LAFCo; so it has a number of purposes.

➤ Public Comment/Question

❖ Staff's Response

Overview of Draft MOU

- We've had a lot of good feedback to inform the planning principles.
- Where the area of transitional zone that's referred to – it's on pg. 11 – the green area represents a ½ mile north and south of Eschinger.
- This meeting's focus is on hearing input from environmental groups, but everyone should have opportunity to comment.
- Looking for thoughts on existing drafts and what might be missing.
- You may agree or disagree with others in the room, please be respectful of that so it is a safe environment for everyone.
- We got feedback from the last meeting that comments were a little long, so please keep comments to two minutes. If we hear comments that are "going in the weeds" we will try to pull it back to focus point.
- Goal is get as much input as possible from you, take diligent notes, facilitate dialogue.

Highlights – Land Use

- Exhibit B – intent is to ensure no development in Cosumnes River Floodplain.
- (refer to PowerPoint presentation – Pam gives overview of points on presentation)
- MOU requires City/County concurrence for any proposed land use change within the transitional zone.
- Protect lands within 100 year floodplain. We got confirmation that 100 year and 200 year are nearly the same.
- Consistency with Sacramento Conservation Plan.
- Recognize balance and coordination with habitat protection.
- Ensure compatibility of lands adjacent to agricultural activities.
- Implement right-to-farm
- Require mitigation
- We heard concern that language regarding development in the 100 year floodplain was too soft. This is an easy fix and we will do that.

Discussion of Focus Areas

Public Comment/Question

- Rob Burness, here on behalf of members of Habitat 2020 Coalition, Environmental Council of Sacramento, and Stone Lakes Preserve. I'll start with providing background and context for the major issues the environmental community wants to raise with the MOU:
 - Back in 2009 we submitted a letter that provided points about MOU. It said, if you adopt MOU, here's what you need to include. We had a specific list. We were dismayed that there was no recognition of the points we suggested. Neither City nor County acknowledged or responded to us. As far as we are aware, there was absolute willful rejection of the topics we put on table. We suggested dialogue to talk about the issues raised, but we end up with a listening session to present our concerns which we will do. But we're not satisfied with the City/County response. There are 6 points we hope will be made:
 - 1) Environmental community remains opposed to Elk Grove SOI.
 - 2) The draft MOU stripped of verbiage is meaningless.
 - 3) Transitional Ag/Res concept is a bad idea.
 - 4) SOI threatens South Sacramento Habitat Conservation Plan (HCP). It should be complete separated.
 - 5) The MOU should deal with key issues/themes.
 - a. Benchmark/commitment regarding existing Elk Grove build out
 - b. Specific surface and groundwater commitment
 - c. Stronger open space commitment

- 6) The MOU must not be adopted until after preparation of the environmental document. Too many issues have been raised. It makes no sense to adopt before that document is released.
 - Brief summary on our take of MOU, what we get out of it. In section 2, the City will plan for Land Use (LU) that are "conceptually compatible" (whatever that means). We see City has these goals. City/County will work together. The vision itself you have summarized key points; these are by and large things that would happen anyway. MOU is full of vague and general language. It is open ended, there are no time lines, no performance requirements, no elaboration on how goals will be accomplished, no guarantee that City/County will follow up.
- I'd love to have a copy of what Rob just said.
 - ❖ The City has received comments from other groups, which will all be part of the record.
 - ❖ This is intended to be constructive and informative.
 - ❖ I believe they're posted on the website now.
- I'd like to know dates Council and Board will meet.
 - ❖ Council on 4/14
- When decision?
 - ❖ A date has not been not determined because after receiving comments, the document will be revised.
 - ❖ Dates will be posted on website.
- Is MOU a legal document?
 - ❖ Not a legal document in the sense that it can be enforced by a judge. It is a voluntary agreement that both boards will sign. There is the intent to include the MOU as part of the SOI application. A similar approach was taken with City of Folsom. When LAFCo accepts, it becomes a condition of SOI approval, so it carries more weight. The intent is to make it a meaningful document, which will stand the test of time.
- But it still doesn't have any teeth.
- With respect to relationship of parties, if you read 4A, it is stated that it is not an agency. Which means it is not responsible for carrying out anything. Not regulatory oriented. It says it in the document.
- Mike Eaton, Defenders of Wildlife and Audubon of California. We're interested in the Cosumnes River Basin. We stand in support of the points made by Rob Burness. This process is more a charade than anything else. MOU can make no reference to water supply. Given the severe water shortage and decades of work the County has done on water forum league, the master plan, and the fact that that document was litigated. There are complexities in relation to Habitat Conservation Plan (HCP), it's stunning that this document ignores water. On behalf of these two organizations, I've filed comments, there is a major disconnect between the SOI and HCP. It seems like MOU that there will be no urban development, but it's clear that from reading of the plan the arithmetic doesn't work. County is spending resources in a wasteful way without addressing issues directly.
- Sean from Habitat 2020. Open space and habitat lands shall be consistent with...provisions for addressing urban growth south. I'm going to read an excerpt from a letter Habitat sent to City/County. "In assessing the implications of SOI inclusion in the take area, however, the draft plan actually makes a strong case that it would be premature to include the SOI expansions in the take area at this point. With respect to the

EG proposed SOI, for example, the analysis demonstrates that with the SOI in place, the plan implementing entity would have to acquire 85% of available mitigation land within zones 8 and 9 to meet mitigation requirements. Without the SOI expansion, mitigation needs would equate to 60% of available lands. The calculations assume static conditions, i.e. no unforeseen activities outside the USB that would consume land and require mitigation outside the USB. In this context, 60% is an extremely ambitious target; 85% may prove unachievable; and the 25% increment between the without-SOI and with-SOI scenarios is likely to represent lands that cost significantly more and transactions that are much more difficult to conclude. It is worth noting as well that EG's proposed SOI expansion would, if approved, result in development of and impacts to the area with the highest concentration of nesting and foraging habitat for Swainson's Hawks in the Central Valley. With the addition of EG's proposed 10,000 acres of expansion, basic assumptions of cumulative impacts due to habitat loss on listed species such as Swainsons Hawk and Greater Sandhill Crane need to be revisited. We also point out that EG's cursory examination of whether or not the SOI would be problematic for the SSHCP as written did not include a consideration of basic biological factors. The Gibson Skordal biological analysis, which supports the SOI, did not address the quality and availability of lands suitable to mitigate for the effects of development within or induced by this sphere increase. Habitat 2020 has registered its concerns about the inclusion of the SOIs to the steering committee in the past. We reiterate those concerns here because of the critical importance to us of this issue. It is imperative that the spheres not be included in the HCP. We look forward to working with stakeholders to develop an amendment process capable of addressing these and other changes in the future."

- Proposed SOI would impact habitat. Basic assumptions are loss of species. EG did not include consideration of basic biological factors.
- The math doesn't work. EG entered process at the 12th hour. Given the incompatibility, it needs to be separated from this process completely. (Mike reads from letter he wrote)
- This area would be self mitigating. Wouldn't that be enough? That's more area than floodplain?
 - The land analysis indicates 85% available suitable lands to meet plan.
 - You have more than 100% there.
 - It's a different zone.
 - The way it's structured, it's divided in zones. Structured to save habitat types. You can't decide habitat types there. Not discretionary.(question raised about calculation of land)
- Sean explaining what HCP identifies.
- Jim Pachtl, Friends of the Swainson's Hawk. Regarding available habitat, it looks like there's a lot of land south of SOI area, but a big chunk is endangered. Typically it's expensive to buy and convert to habitat. To the east that's not Ag/Res. Look at Natomas Basin. There's an HCP that covered certain areas and others to remain undeveloped. So City/County came up with MOU for Natomas. They don't even have SOI, yet immediate escalation of all land in Natomas Basin. Vineyards and AG are here. Land that had not been considered in Joint Vision, right now its running \$30k an acre which is high. I have no reason to believe this would not occur in south County. The price goes up, the people who pay price are developers and people within current City limit. There's about 8k acres within EG that can be developed which includes lands already permitted for development. Like Laguna Ridge. You're not doing your in-City landowners good by designating other areas for development. It would make sense to existing EG tax payers that you hold off on going south until other land is developed. Maybe require in MOU that no developments until 80% of developable lands within City boundary are developed. The

way proposed now, it's another hurdle that landowners within City that they will have to be overcome.

- Sharon: One, I can never find where you're at in MOU because the pages are not numbered. Two, Sheldon was supposed to be transitional zone and look what happened there. And don't blame it on the County. That never happened and I don't believe that will happen because there's no legality to this. It's kind of a fairytale (points to map on screen). MOU says it ensures no urban development. According to General Plan, it can be changed at anytime. There's no teeth. These are false promises (it says "Ensure"). Page 8 – no teeth, just words on a paper. Prohibit – this is already being done, east west of Wilton Road. The people who live here have already plowed all kinds of stuff. Those who live in EG have called City/County and they've done nothing about it. I'm sure they already knew that the City was going to do this. Neither agency has done anything about it. I don't trust the MOU.
- Susan: I guess my contention, perhaps City/County are already in MOU. A gentlemen's agreement they formed years ago. Much of this is going on. They claim they're just moving manure. They've reconfigured floodplains. City looked and says 'not in our jurisdiction'. This good neighbor relation is ongoing, so if this is an extension of that relationship than its hands off any regulation of floodplain
- Under #4 open space habitat. Include neither jurisdiction will not without agreement with other jurisdiction. How about without agreement of the voters?
- How much of the proposed SOI would have been under water in January 1997? It was supposedly a 500 year floodplain. Climate modeling suggests that it will be reset and there will be increased flooding.
 - We have cousins south of Twin Cities Road and maybe a bit north of that.
 - The bad one was 1986 that's when flooding was to Lambert Road. There's a natural ridge that goes up higher the line on Eschinger
 - We don't have a technical answer to this question
- You really have to stand up so we can hear comments. My actual comment is – the floodplain elevations can change and FEMA and their engineers are constantly evaluating that elevation. That elevation will change if you start paving over the land that will absorb flood water. So to say water ever this high, you have to look at what's paved in the area and how high. So with 100 year flood means 1% chance each year. What you call 100 and 500 can change if you remove a lot of the absorbing land. And that's what the concern is which is why people have asked for 500. That's why it's a legitimate question to look at type of land that exists now and look at what it would be if you start paving over that area
- Rob: I believe that a number of climate studies suggest a 1 meter rise in elevation over several decades. Also a change in severity of winter patterns. Given that (I'm talking primarily of west side) if there's sea level rise, the back of flood water is likely to be significantly different. My suggestion is that as part of the environmental document the scope of work addresses scenario of 1 meter rise in sea elevation as well as 500 yr floodplain or something characteristic of increase in severity of storms. Look at Cosumnes and evaluate from there. A lot of Laguna is burned, but what that means is that the water is pushed to other areas. This MOU should be left open so that information is on the table.
- I knew Fred Johnson, he grew up at Grant Line and Bond. When they were kids they drove into EG in a row boat (old EG). That was before anything was paved over and there was a lot of absorption. There's fewer places for water to go. The second item, I've been reading in paper about the recession and the Williamson Act is being enacted and it

affects AG property; there's less and less property. There's nothing mentioned in MOU about what effect of Williamson Act will have on AG. My concern is that it will be impossible to come up with funds for that.

- I think criticism with specificity it would be appreciated, specifically where they're talking about things relative to location. So that those of us with experience can respond to a particular identification on the map.
- I have a document. The City of EG General Plan. It claims to be a vision for City. It's the official policy state of City Council. Look at conservation and air quality. Fill may not be placed in any floodplain...or subsequent...unless specifically approved by City. That's 3 votes on a 5 member Council. And in fact, the prior Planning Director said he would fill it. So I think there's a real contradiction between the vision and the GP. I don't know if it's deliberate, but someone should take a serious look at that.
- Ask for clarification. Under recitals, City may at some point also seek annexation of SOI...require pre-zoning...on the MOU you have transitional area below Eschinger Road. Will that be pre-zoned since this is City of EG application?
 - In reference to Section G, SOI is first step in establishing what City believes is EG boundary. Then if approved it is City responsibility to plan for this area. The County would maintain south of Eschinger
- Russ van Loben Sels, President of Sacramento County Farm Bureau. We've made written comments and at listening sessions. Regardless of what happens with MOU and what we have in the General Plan, you've been told to remove floodplain from SOI. So it makes absolute sense to remove floodplain from SOI. From stand of AG, if there are two government agencies coordinating use, what does the farmer do? Leave it in the County with one entity responsible for what happens in that region. As you look at maps and we push AG into floodplain, you make it so it becomes less viable over time. If you don't have areas outside of floodplain, we get pushed to where we aren't viable. You need to protect viability of AG in south County. I make these comments based on we are a substantial part of economy. The farm bureau champions private property rights between those who want changes and those who don't. The fact that AG is the factory floor, means you need to pay attention. When we look at transition area, the buffer is provided by the entity changing land use. I don't believe buffer south of Eschinger Road. The buffer should be within SOI. When we look at land use policy, the concluding state is...AG land should be protected from conversion. We understand City needs growth, but growth should be based on clear, credible projections. We don't have anything that says that needs to happen at this time.
 - ❖ City is addressing this at 4/14 meeting (discussion of floodplain removal from SOI)
- Tim: I want to follow up and echo these comments on floodplain in SOI. This has been important. We've tried to get to what the reasons are behind floodplain in SOI. The reason carried through – owners of elongated land, because they'd be in two jurisdictions. And it's unclear whether the jurisdiction will cooperate when owners want to split. But, fortunately we have MOU – and I'm sure County would agree. They'd say: what can we do to help? We should use the MOU for that purpose. Second reason is we need the SOI to develop that floodplain. County comes in and develops. But fortunately we have MOU. No need for SOI. Third reason, we want trails and connections consistent with our General Plan. Fortunately we have an MOU that addresses this. And fortunately now City can say we're protected by MOU, we don't need floodplain in SOI so can be left to County and City can concentrate on its core mission. I'm so glad we have MOU.
- Sharon: I did have that point in here. I'm talking about...low intensity trail system. How can you protect Farmland when there's a regional trail system? I've heard comments

from both agencies that they mean along the river when they say trail. Number 3: create a viable interface. That will never happen. Staff was not here when we went through triangle situation. They were supposed to feather 5 acres, 10 acres, etc. but they zoned it all 1 acre parcels. That won't happen no matter what it says on this paper. We have 8,000 acres where zoning for development is there. We are the City, the people who live here. That is plenty of acreage for development. To me, it's all about the developers. We all know they buy land from farmer at a cheaper price, then they rezone. They reap the profits, the school district has done that. A developer bought farmland for 100k and sold to EG school district for a high price. The state taxpayers paid for that land. Corner of Pacific Grove High School bought from Dr. Bishop for very cheap, less than 3 mill and turned around and sold for 3-4million. That's how they operate and it won't be any different than that. I'm not against developers, but its bothersome to me that the farmer doesn't reap the profits. We have 8k acres to develop.

- Evan Whim – I've come to most meetings. I've heard a few things impressive. If we take floodplain out of SOI (talking about the part east of 99) and back it off, a lot of us will go home and be happy. I've listened to a lot of people who understand wildlife, habitat, they understand this. They're saying we have an idea. Farm Bureau same thing. Back out of floodplain so animals, creatures, flood can go thru. Don't play silly games. Give it to these people here. We know then that nature and farmers are protected.
- Tim Morris, own property in area for 150 yrs. We're pleased with SOI but have problem with area north of Eschinger and we want to see that removed from MOU.
- As a member of education community – I teach at Dillard Elementary, we have a science project keeping track of rain totals and we've been low over the last yrs. When I hear concerns over pineapple expresses, it's not happening. My concern is the transition land. What is the precedent for zoning in transition area? 1 acre parcels? Is there some kind of precedent? As owners of land it's interesting to me that people come in (City or County) and the people that have owned land forever have no say. City/County saying, let's make this a transition area...why? Why weren't we apart of this discussion?
 - ❖ Transitions are proposed: what we've found is when we have development that comes up to AG, we have conflict. Ok to farm until there's subdivision across street. At the same time we've had situations where subs have problems with smells from AG. With transition, we want to feather it. So you have more typical subs in growth area as it occurs.
 - ❖ Precedent not yet determined. We're talking larger ones. South of Eschinger we have no proposal. Idea is that those folks without change zone to gather houses and locate them near Eschinger. That's why we've proposed it so we don't have abrupt line.
- I've been going to workshops for 2 ½ years and the trust issue is a constant reoccurring theme. And the MOU would seemingly address trust. But we as environmentalists are concerned that you're going to sprawl all the way to Eschinger. How can we trust that? I look at jurisdictions and open space and habitat and I see you have to agree. Not too far to go to say there isn't much trust and they want to increase SOI. The County the City has to agree – this is a sub text written in here.
- Rob: I register complaints and concerns cutting off at 8:00. This is our opportunity and I would like to be able to communicate. I'd like to address Ag/Res transition zone.
 - There's no commitment from City to protect opens pace beyond transition zone.
 - No analysis that clustering would work. It would require developer rights transfers and density bonuses. This has been discussed in Sacramento County and deemed social engineering.
 - There are plenty Ag/Res to accommodate growth.

- The transition area is flawed. Look at Yolo where there's clear distinction between AG and Res.
 - Transition is bad for HCP. County staff raised questions about transition zone and impact on HCP working.
 - AG land intensive pattern reduce productivity. We need more efficiency with development. The whole concept needs to be abandoned.
- Mike – Nature Conservancy Cosumnes Preserve: I would like to support Rob, Sean, Mike and Tim. We have concern over SOI expansion on our values of groundwater habitat and farmland in area. Purpose of MOU is to get everyone in agreement that SOI is necessary. I think one way to do that would be to take care of acreage within present SOI and show responsible usage. I like Jim's idea of 80%.
 - Pablo Garza with Nature Conservancy: Nature Conservancy sent letter, there's been theme about enforceability of MOU and we share that concern. There's not a lot of concrete steps that the City/County need to take. It's not a strong agreement. To fix, put some actions that are in joint vision actually in the MOU. This MOU ought to be condition of LAFCo approval. Some comments – as Mike said – with 8,000 acres within City, there's question over what's demand? We're curious to see market study. Also analysis of water resources. We also are concerned about future of AG in south County. Analysis of AG, infrastructure needs. Other issue is transitional land. We would agree that any should be north of the line. We'd encourage analysis of what is an effective transition buffer period. We'd be happy to share data from Davis study (about a year out). Lots of small lots and AG/Res not great for habitat not sure compatible with AG either.
 - Where has clustering worked in regional area?
 - ❖ There is example in unincorporated County. North of Birch Ranch. Proposed zoned urban AG. Land was purchased what happened was all land placed – you don't see remainder land behind is AG. They took all development rights for that land.
 - Why hasn't City/County invited different groups before putting out MOU?
 - ❖ That was the purpose of listening sessions.
 - I'd like to point out there's provision says eliminates possibility of citizen suit by land owners. City/County can agree to amend, ends with paragraph binding effect of agreement. Is this intended to be binding between City/County?
 - ❖ Intent is to make part of LAFCo.
 - ❖ We want them to take it out of our hands. This is voluntary agreement which calls for super majority in order to amend.
 - Larry Torte. My perception of reason for area is because connector road is coming which means development is coming. City wants to control. It follows that connection.
 - Rob: Couple key points. Stone Lakes, the connector is exactly the point I was going to make. You'll notice with part of expansion that goes to I-5 that's between boundary on south. That's not part of Stone Lakes boundary. This is where connector would be up to Franklin interchange. Concern is impact on refuge. You're talking new interchange and major road. City controlling and planning for major travel, interchange, and we're concerned about impact on refuge. We suggest in letter that there needs to be sub buffering between refuge. We don't want significant urban development. This is something you could deal with in MOU, open space commits. Second issue is water. Not enough water to accommodate development within existing services boundary. Development plan currently going to Board would exceed supply now. It is not acceptable to dismiss this issue with assumption there would be trade off. EIR must include full

review of current, projected water demand and review of changes of overall groundwater recharge. MOU should be deferred until that analysis is complete. The County standpoint they should insist additional surface water, not exceed outside SOI and sufficient groundwater maintained. MOU should include agreement on how safe water yield between County and City. You're setting up for development free for all. Groundwater management plan – Nature Conservancy supports groundwater management be done prior to any annexation. No annexation until groundwater secured. The need for stronger open space commits. For years citizens have watched increase rapidly without protection of open space land. The budget for County parks is being eviscerated.

❖ Please submit in writing.

- March 31 another opportunity for comments.
- Please also submit comments in writing.
- Staff will evaluate comments/suggest.

Notes from boards:

- Transition zone should all be north
- Any areas where clustering is successful?
- Why no input by stakeholders/interest groups prior to drafting MOU
- Need buffering next to Stone Lake Refuge
- EIR needs to address: past use vs. current use of water
- Use MOU to coordinate services to properties in split jurisdiction
- 8,000 acres within existing City limits is enough
- Remove transition zone
- Connector is driving SOI
- There is not enough water to support existing USB
- MOU does not address anything regarding Williamson Act
- GP – allows fill in floodplain by City Council vote – 3 votes
- Trail and preservation language in MOU are total opposites
- Past transition plan in east EG resulted in 1 acre lots
- What is precedent of transition zone?
- What percentage would be under water per 1997 event?
- Remove 100 year floodplain
- Pushing AG into floodplain makes it nonviable
- No buffer south of Eschinger
- Growth should be based on clear, credible projections
- General lack of trust
- AG-Res transition zone problems:
 - o No analysis of clustering
 - o Density bonuses
 - o Bad for SSHCP
- Utilize current 8,000 acre first
- MOU be a condition of LAFCo approval, like Folsom
- Need groundwater analysis, infrastructure needs
- MOU does not recognize comments by Habitat 2020 sent in May 2009
- Not satisfied with responses from City/County staff and elected officials
- Do not adopt MOU until environmental document complete
- Sec 4, open space: without agreement of the voters
- General plan would allow land use change
- East/west of Wilton Road has already moved dirt
 - o No action by City/County
- Floodplain boundary can change
 - o Paving
- EIR need to review 1 meter rise of floodplain
 - o Climate change

- Dates of City Council and Board meetings regarding MOU
- Is MOU a legal document?
- Has no "teeth"
- MOU does not have regulatory power
- MOU does not discuss water supply
- 8,000 acres in EG already for development
- MOU should have clause requiring 80% build out of 8,000 acres before developing south
- Add page numbers to MOU
- Sheldon Road was suppose to be transition zone
- SOI needs to be out of SSHCP
 - o Can be handled by amendment process in SSHCP
- Lands south of SOI is not foraging habitat
- Similar to Natomas Basin
 - o Increase of land prices
 - o Could occur in South County
- Major disconnect between MOU and SSHCP
- Mitigation lands require 85% in zones 8 and 9 in SSHCP
 - o Demand for land increases mitigation land prices
- MOU does not look at biological factors