

## **RESOLUTION NO. 2002-197**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE FORMALLY DELEGATING TO THE CITY ATTORNEY THE AUTHORITY TO JOIN THE CITY OF ELK GROVE IN AMICUS CURIAE EFFORTS ON MATTERS IMPACTING MUNICIPAL LAW**

WHEREAS, cities throughout California are subject to many similar laws and regulations; and

WHEREAS, a lawsuit against a particular city can often involve matters of common interest and concern for many California cities, including the City of Elk Grove; and

WHEREAS, the City of Elk Grove is asked from time to time to support other cities and public agencies in amicus curiae briefs which may affect the City of Elk Grove; and

WHEREAS, the City Attorney in many cases does not have time between the request to join in the amicus brief and the time for filing of the amicus brief to request authorization directly from the City Council to join in such amicus brief; and

WHEREAS, the City Attorney is well aware of those municipal issues which affect the City of Elk Grove and those issue where it would be beneficial for the City of Elk Grove to be listed as supporting amicus brief filing on behalf of other public entities; and

WHEREAS, there is generally no or minimal cost associated with participating in such briefs; and

WHEREAS, the City of Elk Grove usually has the benefit of the League of California Cities' recommendation on whether to participate in amicus briefs; and

WHEREAS, the League has an extensive process for evaluating whether to advise or recommend participation in a brief by cities, including the City of Elk Grove; and

WHEREAS, the City Council wishes to retain the power to review requests to join amicus briefs where the League has not recommended participation;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elk Grove as follows:

The Council authorizes the City Attorney to join the City of Elk Grove as a participant in the amicus curiae ("friend of the court") briefs under the following circumstances:

1. Where the Legal Advocacy Committee of the League of California Cities has recommended or urged participation in the case, the City Attorney shall have the authority to join the City of Elk Grove as a participant in the amicus brief and shall notify the City Council and all affected departments after such participation has occurred. The City Attorney shall not make a decision to join in any amicus brief effort without prior approval of the City Council where the cost of joining in the case will exceed \$200.

2. Where the Legal Advocacy Committee of the League of California Cities has not recommended or urged participation in the case, the City Attorney shall have the authority to make a preliminary determination to join the City of Elk Grove as a participant in the amicus brief if:

- (a) the outcome of the case could have an effect on the liability of cities, or
- (b) the case would impact the power of cities to govern or tax; or
- (c) the case would impact the ability of cities to conduct and manage the affairs of government in an orderly and efficient manner.

Where the City Attorney has preliminarily determined, pursuant to this policy, the City of Elk Grove should join as a participant in an amicus brief, the City Attorney is directed to promptly notify the Council and affected department managers by informational memorandum as soon as practicable. The City Attorney's informational memorandum shall designate a date by which the City will join in the amicus effort unless any council member notifies the City Attorney to agendaize the matter for discussion in closed session. The City Attorney shall not participate in a matter that has been agendaized for closed session review. The City Attorney shall not make a decision to join in any amicus brief effort without prior approval of the City Council where the cost of joining in the case will exceed \$400 and participation has not been recommended or urged by the Legal Advocacy Committee of the League of California Cities.

In all cases, the City Attorney must determine joining in the amicus brief (1) must be consistent with existing City ordinances, resolutions and/or policies and (2) would protect or advance the City's legal interests.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove, State of California, on this 6th day of November 2002.

  
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RICK SOARES, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
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PEGGY E. JACKSON, CITY CLERK


**AYES:** Soares, Briggs, Cooper  
Scherman, Leary

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

APPROVED AS TO FORM:

  
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ANTHONY B. MANZANETTI,  
CITY ATTORNEY