

MINUTES OF THE DAVIS CITY COUNCIL
Meeting of February 7, 2012

The City Council of the City of Davis met in regular session beginning at 5:30 p.m. in the Community Chambers, 23 Russell Boulevard, Davis, California. The meeting was called to order by Mayor Krovoza.

Roll Call: Councilmembers Present: Sue Greenwald, Joe Krovoza, Stephen Souza, Rochelle Swanson, Dan Wolk

Councilmembers Absent: None

Other Officers Present: City Manager Steve Pinkerton, City Attorney Harriet Steiner, City Clerk Zoe Mirabile

Closed Session City Council convened a closed session pursuant to Government Code §54954.5 to discuss the following:

1. Conference with Legal Counsel – Existing Litigation: (City Council & City acting as Successor Agency)
 - A. Twin Pines Cooperative Foundation v. Davis Area Cooperative Housing Association, Yolo County Superior Court Case No. CV PO 08-3424
 - B. Neighborhood Partners, LLC v. Davis Area Cooperative Housing Association, et al., Yolo County Superior Court Case No. CV11-649
2. Conference with Legal Counsel – Existing Litigation:
 - A. Newpath Networks, LLC v. City of Davis, Federal District Court, Eastern District Case No. 2:10 CV-00236-GEB-KJM
 - B. City of Davis v. Newpath Networks, LLC, California Public Utilities Commission Case No. C. 10-03-011
3. Conference with Real Property Negotiators:

Property: 2001 Second Street, APN 071-405-022

Agency negotiators: City Attorney Harriet Steiner and Property Management Coordinator Anne Brunette

Negotiating parties: Davis Industrial Group, Ron Broward

Under negotiation: Price and terms

City Council returned to open session at 6:45 p.m. with no reportable action.

Approval of Agenda R. Swanson moved, seconded by D. Wolk, to approve the agenda. Motion passed unanimously.

Ceremonial Presentation: 2011 Business and Economic Development Awards – Recognizing Outstanding Local Business, Organizations or Individuals Making Extraordinary Contributions to Their Industry and Community, Strengthening the City’s Business and Economic Development Climate: Mayor Krovoza presented to Carbahal and Co. and Councilmember Souza to Blue Oak Energy.

Councilmember Wolk presented Certificates of Appreciation from State Senator Lois Wolk, Assemblymember Mariko Yamada, and Congressman Mike Thompson.

City Council recessed at 7:02 p.m. for a reception and reconvened at 7:19 p.m.

Brief Commu-
nications

S. Pinkerton: Water Advisory Committee will meet on February 9. Community meetings are scheduled on February 12 for neighborhoods impacted by the Fifth Street Corridor Project.

R. Swanson: Visited Livermore and toured economic development incubator nest on February 1.

J. Krovoza: Energy Audit Reduction Programs presentation will be held on February 9 at Veterans Memorial Center, hosted by Yolo Energy Watch and PG&E. On February 10, city will be hosting kickoff meeting for SB43, bill sponsored by Senator Wolk.

Observed a moment of silence in memory of UC Davis student Brenan Morrow, struck and killed at Arlington and Shasta intersection.

Public Com-
ments

- Laurie Freeman: Regular agenda item, DACHA dissolution application—urge support of Thompson’s efforts in community and settlement of DACHA issues.
- Pam Pachelli and Kevin Smith, Parent Teachers Association (PTA) Emerson Junior High: Commend Con Agra for public support of Davis community; donated use of land for PTA fundraisers; carnival will be held April 19-22 with proceeds donated to upgrade technology at school.
- Alan Pryor: Thanked Council and Community Services Department staff for restoring funding for Integrative Pest Management Specialist position.
- Robert Bailey, Tim Hoban and Michael Bartolic: Regular agenda item, Cannery project—support proposed Cannery project development; urge moving forward with Environmental Impact Report.
- Joshua Billings and Jim Leonard: Request Council agendize a non-binding resolution calling for constitutional amendment expressing that corporations are not people; Assembly Joint Resolution 22 will be voted on February 21, time is of the essence.
- Rose Cholewinski, Chamber of Commerce: Fleet Feet of Davis sponsoring Davis Stampede on February 11; event helps brand city as destination; thanks to Change of Pace and sponsors.
- Aman Shuk: UC Davis student; worked on project regarding affordable housing in Davis--compared 2 models: Dos Pinos and Greene Terrace; Dos Pinos monthly assessments less than comparable, appreciation generally small, solid option for low income families; Greene Terrace capped at 5.5%, questionable appreciation percent, could create affordability gap.

- Rodney Robinson: City banks with Wells Fargo; request issue of where city banks agendized for discussion; should find more equitable bank.

Consent Calendar
(City Council)

Open Space Administration – Mace Curve Property Agricultural Lease and Irrigation System; Easement Acquisition Support Services

1. Approved Resolution No. 12-013 - Authorizing the City Manager or His Designee to Execute the Agricultural Lease of the Mace Curve Property
2. Approve Budget Adjustment #93 (\$35,000) – allocating Open Space Protection Funds for staffing support for open space acquisitions

2012 Golden Heart Awards

Confirmed Nominations for 2012 as listed: Community Service: Asha Bryd and Willie Hall; Personal Challenge: Jessica Roeckl-Navazio, Hannah Gillis and Chad Prizmich

City Council Minutes from the Meetings of May 3, 17 and 24; July 19; August 1; October 18; and November 29, 2011

Approved

Commission/Board Minutes (informational only):

1. Business and Economic Development Commission Meetings of January 24, February 28, March 28, April 25, May 23, June 27 and August 22, 2011
2. City-UCD Student Liaison Commission Meetings of September 14, November 9 and December 14, 2011
3. Historical Resources Management Commission Meeting of September 19, 2011
4. Natural Resources Commission Meeting of September 26, 2011
5. Peripheral Innovation Park Task Force Meetings of February 18, March 10, May 12, June 9, July 14, August 11 and September 8, 2011
6. Planning Commission Meetings of August 3, 2011 and January 11, 2012

Informational

Advisory Commission Actionable Recommendation: Civic Arts Commission Meeting of December 12, 2011 – Action Item Regarding the Truffini Fountain Located in the Davis Senior Center

1. Accepted Commission Minutes as informational
2. Approved Commission Action to deaccession the Truffini Fountain from the City of Davis Public Art Inventory

D. Wolk moved, seconded by R. Swanson, to approve the consent calendar as listed above. Motion passed unanimously.

Consent Calendar
(Successor Agency)

Redevelopment Agency Minutes from the Meetings of May 3, 17 and 24; July 19; and August 1, 2011

Approved

D. Wolk moved, seconded by R. Swanson, to approve the Successor Agency consent calendar as listed above. Motion passed unanimously.

Continued Public Hearing:
Appeal of December 7, 2011 Planning Commission Decision

S. Souza moved, seconded by D. Wolk, to open and continue the following public hearing to February 21, 2012: Appeal of December 7, 2011 Planning Commission Decision to Deny Conditional Use Permit for 5060 and 5080 Chiles Road, Davis Diamonds Gymnastics and MarkeTech Group; Appeal Application PA# 11-37; PA #11-37; Conditional Use Permit # 06-11. Motion passed unanimously.

City Council recessed at 7:55 p.m. and reconvened at 8:04 p.m.

Continued Public Hearing:
Application of Dissolution by Davis Area Cooperative Housing Association (DACHA) under California Civil Code 817.2

Housing & Human Services Superintendent Danielle Foster: Application of Dissolution by DACHA is being processed under CA Civil Code 817.2.

Mayor Krovoza opened the public hearing.

- Rain Peg: Cooperatives should abide by processes set forth in bylaws; need to look at oversight role of nonprofit organizations; oppose dissolution.
- David Thompson, Twin Pines and Neighborhood Partners: Previously suggested public hearing be conducted elsewhere, formally submit protest to Council; cost of hearing process should be borne by DACHA, oppose dissolution; city is in no position to affirm that state law requirements have been met; materials should be sent to Attorney General without any recommendation from Council.
- Paul Harden, Twin Pines: Council should pass to Attorney General without comment; urge Council to come to reasonable settlement with Twin Pines and turn over assets of DACHA.
- Lucas Frerichs, California Center for Cooperative Development: Support cooperatives of all kinds; urge resolution to lawsuits; concerned about state of affordable housing program in city; need to look at what services should and can be provided and how to ensure success going forward.
- Brian Johnson, Rancho Yolo: Council should proceed with independent investigation of matters.
- Dorothy Petersen: Large amount of public funds spent on legal fees that could have been spent on affordable housing; request Council settle lawsuits.
- Nancy Hesling, John Stewart Company: Support Neighborhood Partners, David Thompson and Luke Watkins; monitored conditions at Cesar Chavez Plaza and Eleanor Roosevelt Circle, brought educational and enrichment programs to complexes.
- Brett Lee: Suggest city conduct full investigation on this matter.
- Ann Evans: Wife of David Thompson; Council should deliver to Attorney General with no comment and settle lawsuit.
- Lynn Heverra: City should support Neighborhood Partners and Twin Pines; any organization receiving city funds should not be allowed to break laws.
- Helen and Elizabeth Patterson: Relatives of David Thompson; support David Thompson and Luke Watkins; city should use DACHA assets to restate cooperative development in Davis.

- Susan Shelton: Support Neighborhood Partners, builders of affordable housing for more than 2 decades; urge Council to settle, mediate or bring in third party to investigate.
- Elaine Roberts-Musser: Working on dissolution of DACHA pro bono; no legal basis for city to make finding that DACHA has not meet state law; DACHA has done all that was legally required and then some; corporation in name only, no assets; Council should make the finding that DACHA has complied with all requirements related to dissolution, dissolution plan meets federal and state law; all information and written testimony must be forwarded to Attorney General.
- Ethan Ireland, Acting President of DACHA: Bad press about DACHA over last couple weeks; no conceivable way to continue operating, no interest in membership to continue; serving as sole remaining board member, can't resign until DACHA dissolves.
- Luke Watkins: City Council not disinterested party; perception of conflict of interest; urge no action.
- John Mott-Smith: Support David Thompson and Luke Watkins.
- Ken Wagstaff: Neighborhood Partners has achieved much in terms of affordable housing in Davis, oppose action to dissolve.
- Delaine Eastin: Friends with Ann Evans and David Thompson; urge not to dissolve cooperative until after third party review.
- Fredrick Thompson: Brother of David Thompson; David has always shown total commitment to tenants.

Mayor Krovoza closed the public hearing.

D. Wolk moved, seconded by R. Swanson as follows:

1. Approve Resolution No. 12-014 - Approving the Dissolution of the Davis Area Cooperative Housing Association (DACHA) and Making the Findings Required by California Civil Code Section 817.2.
2. Direct staff to forward all of the information and written testimony from this hearing to the Office of the Attorney General for the Attorney General to consider as part of her ruling on the dissolution, in accordance with Section 817.2.
3. Task the City Attorney to work diligently to mediate or otherwise settle this matter.
4. Commission an independent objective examination of the situation with eye toward proper disposition of the DACHA units.
5. Direct staff to return to Council with a plan to maintain renting all DACHA units.

R. Swanson proposed a friendly amendment that when the staff report regarding rentals returns to Council, consider options including having an outside party collecting rents and providing maintenance of properties. Further, clarify independent examination: consider forming an advisory body with professionals within the housing industry, who shall have no involvement with any entities in dispute,

namely, Neighborhood Partners, Twin Pines, city staff or the elected. Accepted by mover.

City Attorney Harriet Steiner: Items 3-5 shall be taken as direction to staff to return to Council for direction on an appropriately agendaized item; item 3 will most likely return as discussion of scope in closed session.

S. Greenwald moved substitute motion, seconded by J. Krovoza, as follows :

1. Approve Resolution Approving the Dissolution of the Davis Area Cooperative Housing Association (DACHA) and Making the Findings Required by California Civil Code Section 817.2.
2. Direct staff to forward all of the information and written testimony from this hearing to the Office of the Attorney General for the Attorney General to consider as part of her ruling on the dissolution, in accordance with Section 817.2.

Motion failed by the following vote:

AYES: Greenwald, Krovoza
NOES: Souza, Swanson, Wolk

R. Swanson clarified friendly amendment to main motion: Appointees to advisory panel shall have background in co-ops, housing, construction, and development; no member shall have a conflict of interest; established similar to existing water advisory committee. Accepted by mover.

S. Greenwald proposed a friendly amendment to discuss forming an advisory committee to look at the best use of DACHA assets. Not accepted by mover and second.

D. Wolk amended the motion to remove item 5-Direct staff to return to Council with plan to maintain renting all DACHA units. Accepted by second.

Motion as amended passed by the following vote:

AYES: Greenwald, Souza, Swanson, Wolk
NOES: Krovoza

City Council recessed at 10:12 p.m. and reconvened at 10:27 p.m.

- A. June 5, 2012 Election – Second Reading of Ordinance to Renew the Park Maintenance Special Tax and Calling for a General Municipal Election
- Assistant City Manager Paul Navazio: Current parks tax will sunset on June 30; three Council seats are up for election; summarized efforts related to information dissemination.
- R. Swanson moved, seconded by D. Wolk, as follows:
1. Adopt Ordinance No. 2387 - Amending Article 15.14 of Chapter 15 of the Davis Municipal Code Establishing a Park Maintenance Tax to Fund Maintenance of Parks, Street Trees, Greenbelts, Bike Paths, Medians, Public Landscaping, Urban Wildlife and Habitat, Swimming Pools, and Recreational Facilities to Extend the Term of the Tax Subject to the Approval of the Voters,

and Special Election

(Introduced 01/24/2012).

B. 2012 Park Maintenance Tax Information and Outreach (Informational)

2. Approve Resolution No. 12-015 - Both Calling a General Municipal Election for the Election of Three Council Members and Calling a Special Election to be Held in the City on June 5, 2012, for the Purpose of Submitting a Special Tax Measure, the Park Maintenance Tax, Which Would Continue the Park Maintenance Tax and Would Fund Maintenance of Parks, Street Trees, Greenbelts, Bike Paths, Medians, Public Landscaping, Urban Wildlife and Habitat, Swimming Pools, and Recreational Facilities, to the Voters.
3. Approve Resolution No. 12-016 - Requesting the Board of Supervisors of the County of Yolo to Consolidate a General Municipal Election and a Special Election to be Held on June 5, 2012, with the Statewide Primary Election to be Held on that Date, Pursuant to §10403 of the Election Code.
4. Consider appointing a Council Subcommittee to draft language for the Parks Maintenance Tax ballot argument/rebuttal.
5. Accept Informational Item - 2012 Park Maintenance Tax Information and Outreach.

J. Krovoza proposed a friendly amendment to appoint S. Greenwald and R. Swanson as the subcommittee members. Accepted. Motion passed unanimously.

Item Submitted by Councilmember (Greenwald): Reconsideration of Development Impact Fee Annual AB1600 Report

S. Greenwald: Development Impact Fee Annual AB1600 Report originally agendaed on the January 24, 2012 Consent Calendar as Item 4L. Developer Impact Fees are too low; would like staff to review.

The Cannery Follow-up and Next Steps

Principal Planner Michael Webb: Summarized background and next steps for the Cannery project.

Public comment:

- George Phillips: Representing Con Agra; project has been a collaborative effort; work in progress, refinements to lot sizes, architectural, universal design, etc. on parallel track with environmental analysis; want to listen to input from community, open to improving neighborhood.
- Mary Kimble, Center for Land Based Learning: Support urban farm concept, opportunities for entrepreneurship.
- Jennifer Taylor, California Farmer Academy: Beginning farmer training program; looking for additional sites and places for incubator program or subsequent leases; Cannery site can either hold incubator plots or sites farmers take over; will locate trained farmers in community; likely have public spaces for community to interaction.

R. Swanson moved, seconded by D. Wolk, to extend meeting beyond 11:30 p.m.

Motion passed unanimously.

- Matt Williams: Need to focus on housing, project should be consistent with economic challenges facing city; need more apartments to accommodate university growth, affordable for young families and workforce; Environmental Impact Report should be flexible enough to make decisions on housing options.
- David Lautin: Urge Council to initiate EIR for project; Planning Commission has worked long and closely with Con Agra and supports project; need housing, not business space; support all ages development.
- Brett Lee: Concerned that voters recently voted down similar projects.
- John Buckle, Parlin Development Company: Support project as proposed, urge Council to proceed with EIR.
- Lucas Frerichs: General Plan Housing Element Steering Committee listed site for potential infill site within city limits, close to schools, parking, shopping and transit; not appropriate site for light industrial; support moving forward.
- Steve Hayes: Project developed by community over many years through meetings and workshops, multi-generational input into project planning; should have housing appropriate for all ages.
- Sean Adams: Support moving forward; logical site, project congruent with neighborhood.
- Jack Chapman: Support project; well thought out plan.
- Sander Reuben: Support; oppose senior only development.
- Eileen Samitz: Support, project in process for over 8 years, received more positive public input than any other project.

R. Swanson moved, seconded by D. Wolk, as follows:

1. Received update on the efforts leading to the current project description and processing timeline for review of the project application.
2. Direct staff to proceed with preparation of the Environmental Impact Report (EIR) and initiating evaluation and refinement of the project proposal
3. Confirm the range of alternatives to be evaluated as part of the EIR: Wildhorse Horse Ranch, Pacific Gas & Electric Service Center and Nishi Property.

S. Greenwald proposed a friendly amendment to add to the EIR an equal weight alternative analysis for a 30-acre business park. Not accepted.

S. Greenwald moved substitute motion to add to the EIR an equal weight alternative analysis for a 30-acre business park. No second.

Main motion passed by the following vote:

AYES: Souza, Swanson, Wolk, Krovoza
NOES: Greenwald

Removed from Consent Calendar:	<p>Item removed by S. Greenwald.</p> <p>S. Greewald: Concerned over creating new management level jobs.</p>
New Job Specification – Asset Manager	<p>S. Pinkerton: 4 different positions eliminated in Public Works; Asset Manager position is reclassifying Parks position into Public Works, will manage group of staff from Parks plus additional Public Works staff.</p> <p>J. Krovoza moved, seconded by R. Swanson, to approve the new job specification for Asset Manager. Motion passed by the following vote: AYES: Souza, Swanson, Wolk, Krovoza NOES: None ABSTAIN: Greenwald</p>
Authorization to Submit Grant Application to Strategic Growth Council for a “Downtown/ University Innovation District Plan”	<p>Item removed by S. Greenwald.</p> <p>J. Krovoza: Recused himself from this item due to a potential conflict of interest as there is the possibility that the institute he is affiliated with at UC Davis may be one of the subcontractors for the grant, and left the room.</p> <p>S. Greenwald: Concerned that the project won’t pencil out.</p> <p>S. Souza moved, seconded by D. Wolk, to approve Resolution No. 12-017 - Approving the Application for Grant Funds for the Sustainable Communities Planning Grant and Incentives Program Proposal: Downtown/University Innovation District Plan. Motion passed by the following vote: AYES: Greenwald, Souza, Wolk, Swanson NOES: None ABSENT: Krovoza</p>
Items deferred to February 21 Council meeting	<ul style="list-style-type: none"> • Update on Facilities Cost Recovery Policy and Proposed Community Services Revenue and Pricing Policy • Comprehensive Annual Financial Report (CAFR) for the Fiscal-Year Ending June 30, 2011 (removed from consent calendar) • Woodland Davis Clean Water Agency JPA Board Meeting of November 22, 2011 (removed from consent calendar)
Long Range Calendar	<p>S. Pinkerton: Suggest scheduling the economic workshop on February 21 for 90 minutes. Council consensus to schedule from 5:30-7 p.m.</p> <p>J. Krovoza requested staff analysis of Assembly Joint Resolution 22; possible effects to operation of city, elections of council members and ballot measures. Council consensus.</p> <p>R. Swanson requested update on local banking; informational report on status. Council consensus.</p>

J. Krovoza requested report include status of Local Preference Ordinance. Council consensus.

Adjournment Meeting was adjourned at 1:01 a.m.

Zoe S. Mirabile, CMC
City Clerk