

MINUTES OF THE DAVIS CITY COUNCIL
Meeting of March 20, 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

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

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

R. Swanson recused herself from the following due to a conflict of interest from a leasehold within 500 feet of the property:

2. Conference with Legal Counsel – Existing Litigation: Davis Depot At Grade Crossing Application Proceeding; CPUC Case No. A.11-08-14

City Council returned to open session at 6:10 p.m. with no reportable action.

City Council/ Telecommunications Commission Joint Discussion: Commissioners Present: Jim Frame, Charnel James, Bob Kehr, Stephen McMahon, Robert Nickerson, Zackary O'Donnell

Commission Duties/ Responsibilities and City Council Goals Deputy City Manager Kelly Stachowicz: Council goal of community strength and effectiveness, action item: harness social media and electronic communication to improve outreach to the public.

Commissioner comments included:

- Commission is looking at ways to get information out to neighborhoods.
- Commission serves as a resource for reviewing requests related to cell tower programs and radio tower issues.
- Encourage Council to send more items to Commission for consideration; consider extending scope to software application development.

- Council should consider whether function of Commission is still relevant

Council comments included:

- Suggest modifying to Communications Commission. Look at social media, consider ways to make interaction with city functions easier for citizens. Look at joint uses between DJUSD and City.
- Need more broadband downtown.
- Look at communications to Council from citizens, ways to add to discussion and dialogue.
- Request Commission recommendations on functions/modification to scope, return to Council for deliberation.
- Commission should focus on government communications; website should be more accessible; adapt to more internet centric future.
- Consider what portions of projects would be appropriate for commission review. Review membership; is it the correct mix?

City Council recessed at 6:38 p.m. and reconvened at 6:50 p.m.

Youth in Government

J. Krovoza: Introduced Youth in Government program participants attending the meeting shadowing Councilmembers and staff: Samantha Fong, Grace Calhoun, Nikki Kong, Shonna Simon, Dave Owen, and Rachel Smith.

Ceremonial Presentation

Proclamation in Recognition of March as Red Cross Awareness Month presented by Samantha Fong on behalf of Mayor Krovoza.

Brief Communications

City Manager Steven Pinkerton: Water Advisory Committee meetings on March 22 and 24.

S. Souza: Returned from lobbying trip; every 6 months team of representatives from Woodland-Davis Clean Water Agency and Reclamation District 2035 meet with representatives and departments. Received commitments for matching component of intake structure at RD2035 and matching funds for construction and design of intake facility.

R. Swanson: Tree Circus planted tree in Central Park. Attended Women's History lunch. Participated in IGATE delegation that traveled to Richmond on March 19 to look at ultra-light high speed rail. Traveled to Bay Area and spoke with firms that consult on economic development and ways to leverage position. Attended meeting in Sacramento with Yolo Leadership Group, discussing post Redevelopment Agency and pending legislation, next steps for local governments regarding job creations, future of affordable housing.

S. Greenwald: Request more information on state matching funds for water intake facility.

D. Wolk: Participated in Arbor Day tree planting and 20th Anniversary of Tree Davis, accepted Tree City USA designation. Attended Little League grand open-

ing. Request update on U. S. Department of Agriculture lease of Lyng Building at 430 G Street.

S. Pinkerton: Will be added during long range calendar.

J. Krovoza: Introduced Youth in Government shadow Jacob Vanderbuilt. Announced Parks and Recreation Week is April 19-22. Emerson Junior High carnival will be held at the Con Agra site. Looking for people that would like to present and participate in Summer solstice SUNDAY festival on June 24 at East Area Water Tank. Selected Regional Co-Chair for May is Bike Month. Economic delegation from Shen Zhou, China, visting Davis, interested in clean energy, conservation, renewables, parks, greenways.

Public Comments

- Myoung Kim, Sang-Ju, Korea sister city visitor: 4th employee to participate in exchange, will be in Davis for one year; extend regards from Mayor of SangJu.
- Rich Rifkin: Consent calendar item-Terms, Conditions and Understanding of Compensation for the Individual Fire Management Employees: Contract will set precedent, unsustainable; need more sustainable retiree medical.
- Dave Denesy, Davis Peace Foundation: Request consideration of youth safety when discussing wireless schools; danger of cell phone use for children; request Council commission a study before wireless schools get out of hand.
- Jim Leonard, Fred Richardson, Josh Jones, and Skyler Blakesly, representing Occupy Davis group in Central Park: Democracy is under assault, uneven distribution of wealth and power; oppose Police Department treatment of protesters on Friday at Monsanto company; city chose to enforce no camping ordinance at this time after not enforcing for months.
- Nicholas Mead, ACME Theatre: Thanked Council and city staff, support recommendation regarding teen services grant.

J. Krovoza: Invite protestors to meet directly with community liaisons and Police Chief.

Consent Calendar

ADA Home Rehabilitation Program Contract
Approved Resolution No. 12-035 - Authorizing the Execution of a Professional Services Agreement with NeighborWorks as a Third Party Administrator for the Set-Up and Implementation of an ADA-Focused Housing Rehabilitation Program Using Federal Home Funds

First Amendment to ComSites West Cell Tower Lease on John Jones Road
Approved Resolution No. 12-036 - Authorizing the City Manager to Enter into the First Amendment to the Ground Lease with ComSites West

California Department of Transportation Grant Application – Downtown Streetscape Visioning Process
Approved Resolution No. 12-037 - Authorizing Application to the California Department of Transportation, and Authorizing City Manager to Execute Agree-

ments

Commission/Committee Minutes:

1. Finance and Budget Commission Meeting of December 12, 2011
2. Recreation and Park Commission Meeting of December 15, 2011
3. Telecommunications Commission Meeting of December 7, 2011
4. Water Advisory Committee Meeting of February 9, 2012

Informational

Appointment of Inter-Commission Liaison from the Open Space & Habitat Commission to the Finance & Budget Commission

Ratified appointment of Eric Davis as Liaison

Treasurer's Report for the Period Ended December 31, 2011: Investment Activity, Results and Positions for the First Two Quarters of the Fiscal Year (July 1, 2011 through December 31, 2011)

Accepted Report

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

Removed from Consent Calendar:

Items removed by D. Wolk.

D. Wolk: Questioned timing; Council has not yet reviewed the Parks and Facilities Master Plan.

Agreement for Use of Parque Santiago Funds

Property Management Coordinator Anne Brunette: Agreement could be carried over to the same Council meeting as the Parks and Facilities Master Plan discussion.

Housing-Related Parks Program Grant Application – Rainbow City Play Structure at Community Park

Housing & Human Services Superintendent Danielle Foster: Grant application for the Housing-Related Parks Program Grant is due on March 30. Council may redirect funds at later date.

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

1. Table the Agreement for Use of Parque Santiago Funds. Item to return as part of Master Plan discussion.
2. Approve Resolution No. 12-038 - Authorizing Application for Housing-Related Parks Program (HRP) Grant.

Motion passed unanimously.

Terms, Conditions and Understanding of Compensation for the Individual Fire Man-

Item removed by S. Greenwald.

S. Greenwald moved, seconded by R. Swanson, to take up the Terms, Conditions and Understanding of Compensation for the Individual Fire Management Employees in closed session before bringing back to open session. Motion passed unanimously.

agement Em-
ployees

Consultant Con-
tract to Assess
West Sacramen-
to Surface Wa-
ter Supply Op-
tions

Item removed by S. Greenwald.

S. Greenwald moved, seconded by R. Swanson, as follows:

1. Approve Resolution No. 12-038A - Authorizing the City Manager to Execute Consultant Agreement with Carollo Engineers for West Sacramento Water Alternative Analysis
2. Direct staff to arrange for George Tchobanoglous and Ed Schroeder to review the study before completion. Analysis to be presented to Council with consultants when completed.

S. Souza proposed a friendly amendment to direct that the Water Advisory Committee review study before it returns to Council. Accepted by mover. Motion passed unanimously.

Advisory
Commission
Actionable
Recommendations: Recreation and Park
Commission
Meetings of
January 19 and
February 16,
2012

Item removed by R. Swanson.

R. Swanson: Recognize ACME and their efforts in this process.

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

1. Receive February 16, 2012 Commission Minutes as informational.
2. Approve Commission recommendation: Provide full grant funding to the ACME Theatre Company in the amount of \$10,000 as part of the 2012 Teen Services Grant cycle, and to modify the application process to clarify certain language within the application form.
3. Approve Resolution No. 12-038B - Approving Award of the 2012 Teen Services Grants and Authorizing the City Manager to Enter into Contract with Award Recipients.

Motion passed unanimously.

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

1. Receive the January 19, 2012 Commission Minutes as informational
2. Ratify appointment of Robert Glassburner as Inter-Commission Liaison to the Finance and Budget Commission for the 2012 calendar year.
3. Approve the 2012 Work Plan for the Recreation and Parks Commission.

Fiscal Year
2011/12 Budget
Update

Item removed by R. Swanson.

City Manager Steve Pinkerton: Last quarterly update was presented to Council on November 29, foreshadowed most of the information in the current update. Until staff is further along on employee negotiations, it is difficult to determine budget outlook.

R. Swanson moved, seconded by D. Wolk, to accept the Fiscal Year 2011/12 Budget Update: Revenue and Expenditure Results July 1, 2011 through January

31, 2012 (7 months), and Updated Projections of General Fund Results through End of the Current Fiscal Year (June 30, 2012) as informational. Motion passed unanimously.

City Council recessed at 7:51 p.m. and reconvened at 8:02 p.m.

J. Krovoza moved, seconded by S. Souza, to reconsider the Fiscal Year 2011/12 Budget Update. Motion passed unanimously.

J. Krovoza: Last sentence on page 1 of the staff report does not reflect a Council policy on personnel reductions.

J. Krovoza moved, seconded by R. Swanson, to accept the Fiscal Year 2011/12 Budget Update: Revenue and Expenditure Results July 1, 2011 through January 31, 2012 (7 months), and Updated Projections of General Fund Results through End of the Current Fiscal Year (June 30, 2012) as amended: Final sentence on page 1 shall read: These expenditures were intended to be off-set by corresponding General Fund personnel reductions. Motion passed unanimously.

Public Hearing:
Crown Castle
Distributed Antenna System (DAS) Wireless/Cellular Services Infrastructure Network; Planning Application #52-10, Conditional Use Permit #10-10, Zoning Ordinance Amendment #1-10, Appeal #1-12

City Attorney Harriet Steiner: Summarized project history. Currently, there are two pending litigation matters: NewPath filed a lawsuit in federal district court challenging the city's revocation of their encroachment and building permits and asking for a preliminary injunction to allow it to build out its system. The preliminary injunction was denied. NewPath was acquired by Crown Castle, who approached the City to determine interest in proceeding with a Conditional Use Permit process. Federal court action has been stayed pending Council final determination on use permit. Additional action at California Public Utilities Commission filed by City against NewPath alleging that the environmental review of the project violated CEQA and that the permits were issued in violation of CPUC rules and regulations; action has also been stayed.

Principal Planner Michael Mike Webb: Current proposal is for 25 locations, primarily in right-of-ways. Locations interconnected to hub of fiber optic cables either above ground lines on utility poles or underground conduit. Crown Castle is a provider of infrastructure, leases facilities to telecommunications providers; primary tenant is Metro PCS.

H. Steiner: Two levels of regulation for wireless facilities. Federal Telecommunications Act regulates cellular providers; allows for facilities in local communities. Act applies to providers, not infrastructure; City must act on request in reasonable period of time. Preempted state and local governments from dealing with health effects and radio frequencies, may only regulate time, place and manner. Local agencies required to approve co-locations, cannot go through discretionary approval process. Staff recommends addition of definitions to define what types of facilities fall within mandatory co-location rule and what facilities do not. CPUC has authority to grant franchise when public necessity convenience calls for them; may use city's right-of-ways.

M. Webb: Staff is seeking direction from Council on proposed ordinance amendments, and design and locations of telecommunication facilities.

Michael Shonafelt, Crown Castle legal counsel: Crown Castle representatives have provided 5 design and locational analyses, participated in 7 open houses and 5 public hearings. Met with representatives from Planning Commission, Telecommunication Commission, staff and Council. Networks necessary for future data demands; used existing vertical elements where possible. DAS is state of the art, lowers elevation, slimmer and less intrusive profile, provides 4G and broadband throughout node.

Mayor Krovoza opened the public hearing.

- Jill Thagan, Chilea Sey, Samantha McCarthy, Ann Royland, Elaine Fingerette, Steve Hayes, Meredith Herman, Steve Brecken, Ann Risstolfo, Louise Walker, Derrick Downey, Susan Monheight, Marg Teater, and Steve Kowalkowski: Oppose project; wireless facilities should be rationally planned and cited; environmental injustice, wireless telecommunications facilities located in lower socio economic areas; project would establish bad precedent; Crown Castle has not listened to concerns of residents; citizens will not benefit, lose presence of birds, lower home values; current wireless ordinance adopted after 1.5 years of community input; request Council have an independent analysis of coverage, need not demonstrated; technology changing too fast to allow this installation; city should be proactive in looking at design; will be inevitable proliferation of towers throughout city.
- Charnel James, Telecommunications Commission: Saturation rates of subscriptions for wireless services is 103%, broadband industry expand too rapidly. Need strong network.
- Frank Justino, Village Home Owners Association: Understand there are limited options; Village Homes community values open space.

City Council recessed at 9:38 p.m. and reconvened at 9:53 p.m.

- Erica Chernow, Liz Merry, Margarita Carropolta, Karen Andrews, Bob Schneider, Dan Gusfield, Linda Kowalkowski, Dean Johansson, Annmarie Longewieshe, Eileen Samitz, and Kathy Lighten: Oppose project; sets precedent for how public land and goods can be used for private profit; noise pollution; design does not minimize visual impact; proposed ordinance would allow installations within a few feet of homes; should consider long-term cumulative effects to amending ordinance.
- Matt Williams: Application should be complete and identify specifics.
- Helen Plack: Site 19 property owner; if project does proceed, need to provide some mechanism for personal conversation with landowners.

Mayor Krovoza closed the public hearing.

Jonathon Kramer, city consultant technical expert: Issue of coverage is difficult; no federal standard for adequate coverage or capacity; very fact specific case by case basis; lot of fact finding to make reasonable determination.

J. Krovoza moved, seconded by S. Souza, to direct staff to return to Council on April 3 prepared to go through the 25 proposed sites on a site by site basis, with staff annotation of the site evaluation table that addresses possible options to address resident concerns, to also include applicant's annotations.

D. Wolk moved substitute motion, seconded by S. Souza, to direct staff to return to Council with written findings for formal action of the Council to deny Crown Castle's application. motion failed by the following vote:

AYES: Wolk

NOES: Greenwald, Souza, Swanson, Krovoza

S. Greenwald moved substitute motion, seconded by D. Wolk, to incorporate main motion, and direct staff to prepare written findings for denial to include analysis of case law and legal approaches utilized by other agencies.

H. Steiner: Recommend staff bring back legal analysis and provide input as to what findings might look like, Council could decide whether findings should be across the board or pole by pole basis.

Substitute motion passed unanimously.

S. Souza moved, seconded by J. Krovoza, to extend the meeting until 12:30 a.m.

D. Wolk moved substitute motion, seconded by S. Souza, to adjourn meeting and schedule special meeting next week to address remaining items. Sub motion withdrawn.

Main motion passed by the following vote:

AYES: Greenwald, Souza, Swanson, Krovoza

NOES: Wolk

Formation of Affordable Housing Advisory Task Force (AHTF)

City Manager Steve Pinkerton: Purpose of task force is to review information regarding the existing twenty single-family homes formerly held by the Davis Area Cooperative Housing Association (DACHA), and to assess options for potential future use of the units within the context of the City's affordable housing program.

Public comment:

- Elaine Roberts-Musser: Concerned about formation of advisory task force, when assign make sure that whoever is assigned is in no way connected with DACHA—no relatives, supporters, etc.

S. Souza moved, seconded by R. Swanson, to approve Resolution 12-039 - Es-

establishing the Structure and Purpose of the Affordable Housing Task Force, taking action to form the AHTF and directing staff to complete the next step of the process using the scope and selection process outlined in resolution.

R. Swanson proposed a friendly amendment: If litigation is concluded via settlement without proceeding to trial, Council will consider the level of investigation appropriate related to the Davis Area Cooperative Housing Association. Accepted by mover.

Motion passed unanimously.

City Council
Compensation

Item deferred to next regular Council meeting.

Long Range
Calendar

R. Swanson requested letter pertaining to city support for retention of the USDA lease of the Lyng Building on G Street be agendaized for the next regular Council meeting. Council concurred.

Adjournment

Meeting was adjourned at 12:31 a.m.

Zoe S. Mirabile, CMC
City Clerk