

MINUTES OF THE DAVIS CITY COUNCIL  
Meeting of October 23, 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: Lucas Frerichs, Joe Krovoza, Brett Lee, 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 D. Wolk moved, seconded by R. Swanson, 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: Conference with Legal Counsel – Existing Litigation:  
1. Lewis v. Russell, Federal District Court Civil Section – 032646 WBSKJM  
2. Davis Enterprise, Inc. v. Fairfield Publishing Company, et al, Yolo County Superior Court Case No. CV06-68

City Council returned to open session at 6:42 p.m. with no reportable action.

Ceremonial Presentation Proclamation Recognizing October 24, 2012 as United Nations Day and October 24-31, 2012 as Support UNICEF Week, presented by R. Swanson.

City Manager Brief Communications Police Captain Darren Pytel: Update on City Volunteer Program—Working with departments to recruit volunteers and expand services; looking for both single use and large scale event volunteers; will be targeting neighborhoods, such as adopt a park-greenbelt-street.

Public Comments

- David Thompson, Twin Pines Cooperative Foundation: On February 7, 2012, Council committed to investigation into DACHA activities, no investigation has occurred to date.
- Jane Shaffer Kramer: Home owner's association responsible for median strips in neighborhood, landscape unsustainable due to increasing water rates. Landscape conversion plans can be expensive; many agencies offer financial incentives and guidelines.
- Matt Williams: Water Advisory Committee supports water efficiency efforts with a focus on irrigation.
- Elaine Roberts-Musser: Program titled QWEL offers online tutorials on latest landscape techniques.

Consent Calendar

Supportive Housing Program Permanent Supportive Housing Grant  
Approved Resolution No. 12-158 - Authorizing the City Manager to Execute Agreements with the U.S. Department of Housing and Urban Development and Davis Community Meals for Implementation of the Supportive Housing Program Permanent Supportive Housing Grant of \$47,327.

Contingency Increase for 2012 Water Main Rehabilitation, CIP No. 8190  
Approved Resolution No. 12-159 - Increasing the Construction Contingency for Water Main Replacement – 2012, Civil Engineering Construction, Inc., CIP No. 8190

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

Southern Pacific Depot Train Station at 840 Second Street – Federal Transit Administration (FTA), Prop 1B and Community Development Block Grant (CDBG) Funds

Approved Budget Adjustment #58 (\$307,122) – allocating FTA, Prop 1B and CDBG funds for security measures, ADA improvements, bike transit improvements, and other improvements as coordinated with Unitrans

Child Care Services Budget 2012-13 – Allocating Revenue from County, State and Federal Grants

Approved Budget Adjustment #63 (\$750,684) – allocating grant funds for payments to child care providers and expenses related to staffing and administration

Fee Waiver Request for Interfaith Rotating Winter Shelter (IRWS)

Waived the planning application fee for a Conditional Use Permit for IRWS, charging costs to the Community Planning Fund rather than directly to the applicant

Commission Minutes:

1. Bicycle Advisory Commission Meeting of August 6, 2012
2. City-UCD Student Liaison Commission Meeting of June 13, 2012
3. Finance and Budget Commission Meeting of September 10, 2012
4. Historical Resources Management Commission Meeting of August 20, 2012
5. Planning Commission Meetings of September 14, 2011 and June 6, 2012

Informational

Fifth Street Corridor Improvements – Pedestrian Safety Features

1. Proceed with final design and preparation of construction documents using the striping plan alternative.
2. Directed staff to return to City Council with the full bid package documents prior to releasing the project for bid, including a detailed construction cost estimate and list of bid alternates to be included that would allow flexibility to award a contract within the available budget.

D. Wolk moved, second by L. Frerichs, to approve consent calendar as listed above. Motion passed unanimously.

Removed from Consent: Item removed by L. Frerichs.

City Council Minutes from the Meetings of March 6 and 20, 2012

L. Frerichs: March 6, 2012 agenda item regarding decision to authorize property management contract for 20 city-owned affordable units (GAMAT properties, formerly DACHA). Request status report on activities.

S. Pinkerton: Data has already been collected; will agendize staff report for next meeting.

B. Lee: Request details of the contract included in the report.

L. Frerichs moved, second by R. Swanson, to approve the City Council Minutes of March 6 and 20, 2012. Motion passed unanimously.

Public Hearing: Amendments to Chapter 33 of the Davis Municipal Code Pertaining to Sewers and Sewage Disposal and Adoption of the Industrial Pretreatment Enforcement Response Plan

Mayor Krovoza opened the public hearing, and after no comments, closed the public hearing.

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

1. Determine that the adoption of amendments to Chapter 33 of the Davis Municipal Code pertaining to Sewers and Sewage Disposal, and adoption of the Enforcement Response Plan are categorically exempt actions from environmental review pursuant to section 15308 of the CEQA Guidelines
2. Introduce Ordinance Amending Chapter 33 to the City of Davis Municipal Code
3. Resolution No. 12-160 - Adopting an Enforcement Response Plan for the City of Davis Industrial Pretreatment Program

Motion passed unanimously.

Water Advisory Committee Recommendations Related to Water Supply

General Manager Utilities, Development & Operations Herb Niederberger: Summarized Water Advisory Committee deliberations and recommendations regarding the preferred water supply project, cost allocation and procurement methodology. Staff recommends Council authorize two members to continue negotiations with City of Woodland settle on acceptable cost allocation.

Special Counsel Iris Yang: Some factors not yet known—project cost, impacts, water demand, cost allocation agreement with City of Woodland. Opportunities for input will come from measure vote and Prop 218 protest proceeding.

Consideration of a Potential Water Supply Ballot Measure

Public comments:

- Matt Williams: Community wants a binding vote; should conduct Prop 218 proceeding first, then measure.
- Elaine Roberts-Musser, Water Advisory Committee: On June 14, WAC voted to support binding measure, by 6-4 vote.
- Randy Dodd: Should pursue more mgd's since cost is reasonable.

City Attorney Harriet Steiner: Issues involved are timing and substance. Need to call election for a March ballot before the Prop 218 notices have been distrib-

uted. Rates are approved by property owners as the rate payers; the measure will be voted on by registered voters who might not be impacted directly. Even after 218 vote, will still have major decision points such as financing and procurement methodology.

City Manager Steve Pinkerton: New allocation of water Woodland 60/Davis 40 split; initial discussions have taken place as to how to better reflect split in downsized project; will be able to provide updated cost allocation recommendation in next few weeks to Councils and Woodland Davis Clean Water Agency.

J. Krovoza moved, seconded by D. Wolk, as follows:

1. That the Davis City Council receive the Water Advisory Committee (WAC) recommendations, and identify as the preferred water supply project the Davis Woodland Water Supply Project (DWWSP) Option A, WAC Alternative 4b: 30 mgd (million gallons per-day) total project delivery with Woodland at 18 mgd and Davis at 12 mgd, and that the preferred procurement and bidding methodology be in the form of a Design-Build-Operate (DBO) contract.

WAC recommendations:

- A. To adopt the DWWSP Option A, WAC Alternative 4b: 30 mgd DWWSP Project; Woodland: 18 mgd, Davis: 12 mgd with the following criteria:
    - i. That both cities share in the cost of the pipelines to convey the treated water to the city limits of each city.
    - ii. That the cost share percentages of the entire project change to reflect the current anticipated reliance on the treatment facility.
  - B. That the City consider mediation to resolve the WDCWA allocation of costs to achieve proportionality.
  - C. That the City Council consider directing staff in coordination with the Natural Resource Commission to develop recommendations to improve the City's water conservation program with particular emphasis on irrigation.
  - D. That if the City proceeds with the WDCWA water supply alternative, the preferred procurement (bidding) methodology be in the form of a DBO contract.
2. That the Davis City Council authorize its representatives Dan Wolk and Rochelle Swanson to continue negotiations with the City of Woodland, to come up with an acceptable project cost allocation to be incorporated into the Woodland Davis Clean Water Association Joint Powers Authority (WDCWA JPA) agreement.
  3. Upon expiration of the terms of the initial DBO contract, the DWWSP will be placed under municipal operation, unless the WDCWA JPA affirmatively votes to contract for a continued term of contract operation.
- Motion passed unanimously.

J. Krovoza moved, seconded by D. Wolk, as follows:

1. That the Davis City Council approve in concept the following advisory ballot language and direct staff to bring it back in final form to the City Council on November 13, 2012: "Should Davis proceed with participation in the Woodland Davis Clean Water Project, to provide 12 million gallons per day of surface water to Davis water consumers and use groundwater as necessary, at an estimated construction cost to Davis of approximately \$xxx and subject to approval of increased water rates by the water customers of Davis following a full Proposition 218 process?"
2. That the Davis City Council approve in concept the proposed resolution calling a special election for March 2013, and direct staff to bring the resolution back in final form to the City Council on November 13, 2012 together with the resolutions to formally call the mailed ballot election, and provide for the County to conduct the election.

Motion passed unanimously.

L. Frerichs moved, seconded by R. Swanson, that consistent with City Council direction adopted September 6, 2011, the Davis City Council continues its policy and implementation of robust operation of demand side management water conservation.

City Council recessed at 8:25 p.m. and reconvened at 8:36 p.m.

#### Regulation of Wood Burning

Interim Public Works Director Bob Clarke: Intention of proposed Ordinance is to set defined limit that triggers no burning alert. Focus on getting citizens to comply. Will return to council in Spring with results and costs, seek input on possible modifications.

Paul Hensleigh, Yolo Solano Air Quality Management District: Board has previously considered regulations; however, attain federal standards; Board supports any local agency that wants to enforce, and willing to provide support as needed; suggest keeping language simple for messages of enforcement.

Public comments:

- Alan Pryor: Need to address nearest neighbor impact; recommend ordinance be amended: use 25 micrograms per cubic meter, include EPA phase 2 devices in no burn days, eliminate exemptions for low income households.
- Deborah Whitman, Environmental Voices: Support mandatory restrictions at lowest levels with no exemptions.
- Jennifer Seagar: Support actions to protect most vulnerable people in community; severe health effects, especially to children and older persons.
- Renee Toledo: Should be exemption for economic difficulties for people with broken furnaces; visible emission enforcement should be revised to specify method of how emissions can be determined; ordinance should require that every waiver be approved or denied.
- Peter Kelly: Need to craft ordinance that will receive community buy-in.
- Matt Dolsage: Every neighborhood has problem of nearest neighbor impact;

- support ordinance.
- Beth Foraker: Do not support declaration of urgency; can rationally discuss issue with neighbors.
  - John Spurr: Davis meets Federal standards, 5 complaints last winter lodged should retain current voluntary program; if ordinance passed, should not include EPA phase 2 devices.
  - Randy Dodd: YSAQMD has good notification system, email, Facebook and website, urgency ordinance does not address; should be warning on initial offense so people can adapt and learn.
  - Clay: Voluntary program working, educate problem offenders; cost underestimated; heavy handed ordinance.
  - Joe Dixon: Staff following EPA regulations; no burning warning system works well; no issues with neighbors, have EPA 2 device.
  - Bob McCormick: Oppose ordinance; voluntary program is working.
  - Barbara King: Support 25 micrograms; should not have blanket phase 2 exemption; support tiered approach.
  - Mitch Heller: Custom Fireside Shop; clear distinction between recreational use and ability to use fireplaces during unhealthy conditions; support exemption for EPA Phase 2.
  - Dean Newberry: Thank council for taking up issue and community members for providing input; support Alan Pryor's proposed amendments.

L. Frerichs moved, seconded by R. Swanson, as follows:

1. Approve findings supporting declaration of urgency to protect public health and safety.
2. Adopt Urgency Ordinance to Take Effect Immediately Adding Chapter 39A to the Davis Municipal Code to Regulate Wood Burning and Declaring that this is an Urgency Ordinance Necessary for the Immediate Preservation of the Public Health and Safety.
3. Introduce Ordinance Adding Chapter 39A to the Davis Municipal Code to Regulate Wood Burning
4. Ordinances to include the following amendments: Trigger for curtailment set at 25 micrograms per cubic meter. Exemptions for EPA Phase 2 devices and manufactured logs. 1 warning before citation is issued.

R. Swanson proposed a friendly amendment: \$5,000 spending limit. If more resources are needed, staff will return to Council with budget adjustment request on consent calendar. Accepted by mover.

J. Krovoza proposed a friendly amendment: 1 season pilot project. Ordinance shall terminate on March 1, 2013, except for pending citations. Accepted.

J. Krovoza proposed a friendly amendment to include reference to staff enforcement initiated based on complaint basis. Accepted.

Motion passed unanimously.

City Council recessed at 10:57 p.m. and reconvened at 11:05 p.m.

Downtown Parking Task Force

R. Swanson moved, seconded by D. Wolk, that item be deferred to October 30, 2012. Motion passed unanimously.

Energy Assessment Report

Howard Golub, Nixon Peabody, consultant: Asked to identify options for energy service and key issues to implementation. Two basic options for local control of energy future. Community Choice Aggregation (CCA), city provides power, PG&E provides distribution system. Municipal utility, city runs distribution and procures power. Municipal utility may be more economical option to pursue.

Public comments:

- Gene Wilson: Appreciate Council's efforts; going in right direction; support.
- Alan Pryor: Gene's vision; City Manager took it to next level looking at municipal utility; will require substantial bond, have to be taken to voters, could get as much as \$4-5 million/year for city programs.
- Dean Newberry: Support effort, good direction for community; vote in city was 2 to 1 in favor of SMUD annexation a few years ago.

D. Wolk moved, seconded by L. Frerichs, to accept the Energy Assessment Report and direct staff to develop a Scope of Work for an Economic Feasibility Study. Motion passed unanimously.

Council Brief Communications

J. Krovoza: Attended Mexican American Concillio on October 20, 2012. Art-tober event, 30 days of art in October; Davis Mural Team has published book of murals painted downtown; new map of art in city and on UC Davis campus.

R. Swanson: Dia de los Muertos celebration will be held November 1, 2012.

S. Pinkerton: Whole Foods Davis grand opening on October 24.

Long Range Calendar

S. Pinkerton: Closed session on labor October 24. October 30 meeting will start at 6pm. November 13 meeting will include proposal art issues. November 27—20% water demand reduction; reschedule residential variable sanitation rate to later date.

L. Frerichs: Davis Art Center will be hosting phone art exhibit in January, request Proclamation. Council support.

R. Swanson: Housing committee. Would like to discuss when return to Council. Need to refine makeup of committee.

H. Steiner: In midst of preparing memo on affordable housing options. Significant cases that have limited affordable housing. Bring back framework in post redevelopment area. Should have ready by mid-December.

B. Lee: Request discussion of commission selection process, general framework

of new method.

J. Krovoza: Would like staff analysis before Council consideration.

S. Pinkerton: Staff will prepare update, opportunity to dialogue.

B. Lee: Request status update on Redevelopment Agency.

S. Pinkerton: Will return in December.

Adjournment Meeting was adjourned at 11:55 p.m.

Zoe S. Mirabile, CMC  
City Clerk