

MINUTES OF THE MEETING OF THE DAVIS CITY COUNCIL
FEBRUARY 8, 2005

The City Council of the City of Davis met in regular and closed session at 5:00 p.m. in the Community Chambers, 23 Russell Blvd., Davis, California. The meeting was called to order by Mayor Asmundson.

Roll Call: Councilmembers Present: Sue Greenwald, Ted Puntillo, Don Saylor, Stephen Souza, Ruth Asmundson.

Councilmembers Absent: None.

Other Officers Present: City Manager James Antonen, City Attorney Harriet Steiner, Deputy City Clerk Zoe Mirabile.

Approval of Agenda T. Puntillo moved, seconded by S. Souza, approval of the agenda as submitted. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Closed Session The City Council ordered a closed session of the City Council be held for the purpose of discussing and, if necessary, taking action on the following issues:

- A. Conference with Legal Counsel – Existing Litigation.
Elmwood v. City of Davis, Cal Aggie Christian Association, PT05-54.
- B. Conference with Legal Counsel – Existing Litigation.
Davis Police Officers Association v. City of Davis, PT05-100.
- C. Conference with Legal Counsel – Anticipated Litigation.
Significant exposure to litigation pursuant to subdivision (b) §54956.9 (1 case).
- D. Conference with Legal Counsel – Existing Litigation.
Antipa, et al. v. Davis Center LLC, et al. CV04-1429.

Council moved into closed session and upon returning to open session, City Attorney Steiner announced the following:

A. City Council voted to defend the lawsuit Elmwood v. City of Davis, Cal Aggie Christian Association, PT05-54 by the following vote:

AYES: Puntillo, Saylor, Souza, Asmundson.
NOES: Greenwald.

B. City Council voted to defend the lawsuit Davis Police Officers Association v. City of Davis, PT05-100 by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

C. No report on Conference with Legal Counsel – Anticipated Litigation.

D. City Council voted to defend the lawsuit Antipa, et al. v. Davis Center LLC, et al. CV04-1429 and directed City Attorney to hire outside counsel by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Proclamation Declaring Spay Day USA Mayor Asmundson presented a Proclamation Declaring February 27, 2005 as Spay Day USA in the City of Davis and Recognizing the Efforts of the Sacramento Area Animal Coalition.

Consent Calendar Resolution No. 05-07 - Creating a Bicycle Advisory Commission.
Approved.

Resolution No. 05-08 - Approving Acceptance of the Thornton S. Glide, Jr. and Katrina D. Glide Foundation ("Glide Foundation") Grant Award Under the Glide Foundation Grant Program.
Approved.

Resolution No. 05-09 - Accepting Bid of \$28,296.72 from Cummins West Inc. for One (1) 35KW Stationary Emergency Generator.
Approved.

Resolution Authorizing the Assistant City Engineer to Submit and Execute an Application for SB 1346 Rubberized Asphalt Concrete Grant Program.
Item removed by D. Saylor for further discussion and separate vote.

Resolution Accepting Ownership of Roadway and Utility Improvements on Covell Boulevard and Mace Boulevard.
Item removed by D. Saylor for further discussion and separate vote.

Proposed Fifth Street Commerce Center Development Impact Fees.
Approved Development Impact Fee calculation based on fee schedule plus interest.

Proposed Springlake Fire Protection District Contract Revision.
Approved.

Proposed Contribution to Yolo County for Wider Bicycle Lanes on County Road 32A.
Approved contribution for planned reconstruction of County Road 32A in fiscal year 2006/07.

Ordinance Amending Section 22.07.030 of the Municipal Code of the City of Davis Relating to Stop Intersection Designation – Del Valley Place at Oceano Way.
Introduced.

Ordinance No. 2197 - Amending Section 22.07.020 of the Municipal Code of the City of Davis Relating to Through Street Designation – J Street.
Adopted (Introduced 01/18/05).

Ordinance No. 2198 - Amending Section 22.07.030 of the Municipal Code of the City of Davis Relation to Stop Intersection Designation – J Street at Drexel Drive.
Adopted (Introduced 01/18/05).

Budget Adjustment # 47 - Office Emergency Services Strike Team Reimbursement (\$63,815).
Approved.

Budget Adjustment #48 - Facility Fee Waiver Request from Yolo County Gay Pride Day Committee (\$134.00).
Approved.

Second Quarter Treasurer's Report – Summary of Status and Activity in City's Pooled Investment Portfolio for Period Ending January 2, 2005.
Informational.

Commission Minutes:
City-UCD Student Liaison Commission Regular Meeting of December 1, 2004.
Informational.

Business and Economic Development Commission Regular Meetings of November 29 and December 20, 2004.
Informational.

Finance and Budget Commission Regular Meetings of September 13 and October 11, 2004.
Informational.

Historical Resources Management Commission Regular Meetings of October 18 and December 20, 2004.
Informational.

Human Relations Commission Regular Meeting of November 18, 2004 and Retreat of December 16, 2004.
Informational.

Natural Resources Commission Regular Meetings of October 25 and November 22, 2004.
Informational.

Planning Commission Regular Meetings of September 1 and October 27, 2004.
Informational.

Recreation and Park Commission Regular Meetings of November 18 and December 16, 2004.
Informational with the following exceptions:

1. November 18, 2004 Item #5: Arroyo Pool Noise Concerns – Approved recommendation to continue with guidelines Council approved on December 2, 2003 plus five additional guidelines as stated in staff report.
2. December 16, 2004 Item #6 – Approved recommendation for removal of Kiosk at Skateboard Park.

Safety Advisory Commission Regular Meetings of November 4 and December 9, 2004.
Informational.

Senior Citizens Commission Regular Meetings of December 9, 2004 and January 13, 2005.
Informational.

Tree Commission Regular Meeting of January 20, 2005.
Approved commission recommendations relative to tree removal requests.

City Council Minutes from the Regular Meetings of December 7, 2004, January 11 and January 18, 2005
Approved.

T. Puntillo moved, seconded by S. Greenwald, approval of the Consent Calendar as amended. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Resolution Authorizing Application for SB1346 Rubberized Asphalt Concrete Grant Program	D. Saylor moved, seconded by S. Souza, approval of Resolution No. 05-10 - Authorizing the Assistant City Engineer to Submit and Execute an Application for SB 1346 Rubberized Asphalt Concrete Grant Program. The motion passed by the following vote: AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson. NOES: None.
Resolution Accepting Ownership of Roadway and Utility Improvements on Covell and Mace Boulevards	D. Saylor moved, seconded by S. Souza, approval of Resolution No. 05-11 - Accepting Ownership of Roadway and Utility Improvements on Covell Boulevard and Mace Boulevard. The motion passed by the following vote: AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson. NOES: None.
Public Comment	None.
City Council, City Manager and City Attorney Communications	
A. League of California Cities Conference	City Manager Antonen reported on attending the League of California Cities City Manager's Conference wherein discussion included potential pension reform legislation and formation of a Task Force with membership including City of Davis Finance Director Paul Navazio.
B. Human Relations Commission	Councilmember Souza attended the Human Relations Commission retreat where they finalized a workplan which will be brought to Council for approval.
C. Davis Conference and Visitors Bureau 2x2	Councilmember Souza and Mayor Asmundson attended the Davis Conference and Visitors Bureau 2x2 and discussed upcoming conferences and the CaliforniaMan Triathlon.
D. Telecommunications Task Force/ Open Space Commission	Mayor Pro Tem Greenwald attended the Telecommunications Task Force where discussion centered on cable franchise renewal negotiations. Greenwald also attended the Open Space Commission where they reviewed the proposed Northstar Pond fly casting area.
E. Sacramento Area Council of Government	Mayor Asmundson and Mayor Pro Tem Greenwald attended a Sacramento Area Council of Government retreat where discussion focused on implementation of the approved Blueprint Project.
Written Communications	Correspondence from Debbi Gilad regarding possible Target location. <u>Referred to Community Development.</u> Correspondence from Veronica Tramontini regarding traffic concerns. <u>Referred to Public Works.</u> Correspondence from Beth Foraker regarding urban planning and growth issues. <u>Informational.</u> Correspondence from City Arborist Rob Cain in response to citizen concern over Tree Commission tree removal decision. <u>Informational.</u> Correspondence from Joe Sherman regarding claim against the City of Davis. <u>Referred to Risk Management.</u>

Correspondence from Guoping Xu, including response from Bicycle and Pedestrian Coordinator Timothy Bustos, regarding a bicycle accident.
Informational.

Correspondence from Michael Levy, Grande Neighborhood Association, regarding the Grande School site.
By consensus, Council agendaized item for discussion of available options to ensure City interests appropriately considered and directed City Attorney to investigate appropriate legal procedures.

Correspondence from Bill Powell, Davis Senior Housing Cooperative, regarding Development Impact Fees.
Referred to Community Development.

Update on Covell Village Schedule

S. Souza recused himself due to a conflict of interest as he owns a business which had a prior affiliation with the developers.

Community Development Director Bill Emlen summarized the progress made in processing the Covell Village application, and explained staff and the Council Subcommittee charged with negotiating the Development Agreement have concluded that the current schedule with a target June 2005 election needs to be extended. The new schedule targeting a November 2005 election will continue with the planning and deliberation activities currently underway, and only the formal public hearings slated for mid-February to March will be rescheduled.

D. Saylor moved, seconded by T. Puntillo, approval of a revised schedule to effectuate completion of the Covell Village development review process by early summer, and if the application for General Plan Amendment and baseline project features are approved by the City Council within the timeline, would allow the project to be placed on the November ballot for a Measure J election.

S. Greenwald moved substitute motion for approval of targeting a June 2006 election. No second.

The original motion passed by the following vote:

AYES: Puntillo, Saylor, Asmundson.
NOES: Greenwald.
ABSTAIN: Souza.

Yolo-Solano Air Quality Management District Presentation on Wood Burning

Yolo-Solano Air Quality Management District representative Paul Andrew Hensleigh, Supervising Air Quality Engineer, presented information on the District and proposed Model Wood Burning Appliance Ordinance, which the District recommends all cities in Solano and Yolo Counties consider adopting.

S. Souza moved, seconded by D. Saylor, referral of the proposed Model Wood Burning Appliance Ordinance to the Natural Resources Commission for consideration. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Yolo County Flood Control and Water Conservation District Presentation

Yolo County Flood Control and Water Conservation District representative Tim O'Halloran, General Manager, presented information on the District including background, current issues/activities and future initiatives.

Governance Task Force Mid-Report Presentation

Michael Levy, Governance Task Force Chair, presented information on the activities of the Task Force, explaining that focus has been on information gathering and consideration of the perceived problems of status quo. Future activities include deliberation on recommendations and drafting final report.

By consensus, Council agendaed consideration of appointment to the Governance Task Force to fill a vacancy due to resignation.

Update on Medical Marijuana Dispensaries

Police Captain Steven Pierce explained in August 2004 Council adopted a moratorium on medical marijuana dispensaries, directed staff to prepare a draft regulation ordinance for Council consideration and requested the City Attorney provide an opinion on the City's vulnerability to lawsuits should the Council decide to ban dispensaries. Pierce provided a summary of the U.S. Supreme Court case *John D. Ashcroft, Attorney General, et al., v. Angel McClary Raich, et al.*; the Court is due to publish its findings by June 2005 which may be relevant to the issue of California's right to allow the use of medical marijuana and dispensaries.

Nathan Sands, Compassionate Coalition, stated Senate Bill 420 was approved by the California voters and allows for reasonable compensation to a primary caregiver to grow and provide medicinal marijuana without placement of a limit on the number of patients; the definition of dispensary within an ordinance should allow for the duties of caregivers.

Jason Sterling stated the *Ashcroft v. Raich* decision will not resolve the debate over the legality of medical marijuana within California.

T. Puntillo moved, seconded by D. Saylor, retain the current moratorium and delay any further action until the Supreme Court announces a decision in *Ashcroft v. Raich*. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Council Subcommittee Report on Retreat Follow Up – Council Meeting Ground Rules

Mayor Asmundson and Councilmember Saylor, Council Subcommittee on Retreats/Goals/Procedures, outlined the proposed ground rules during Council meetings. At the November 6, 2004 Council Retreat, the Subcommittee was charged with determining ground rules to make meetings flow as smooth as possible; proposed rules have been based upon the League of California Cities publication "Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century."

S. Souza moved, seconded by T. Puntillo, approval of Council meeting ground rules and direction to staff to amend the Council Procedures Manual to include ground rules and references to Rosenberg's Rules of Order and return to Council with an associated resolution. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Adjournment

The meeting adjourned at 10:58 p.m. to the next regularly scheduled meeting.

Respectfully submitted,

ZOE S. MIRABILE
Deputy City Clerk