

**MINUTES OF THE DAVIS CITY COUNCIL
MEETING OF OCTOBER 17, 2006**

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

Roll Call: Councilmembers Present: Ruth Asmundson, Lamar Heystek, Don Saylor, Stephen Souza, Sue Greenwald

Councilmembers Absent: None

Other Officers Present: Acting City Manager Rose Conroy, Assistant City Attorney Kara Ueda, City Clerk Margaret Roberts

Closed Session The City Council went into closed session for the purpose of discussing and, if necessary, taking action on the following issues:

Conference with Labor Negotiator – Unrepresented Employee: Police Lieutenant

Conference with Legal Counsel – Anticipated Litigation. Initiation of litigation pursuant to subdivision (c) of §54956.9: one case

The Council returned to open session with no reportable action.

Approval of Agenda R. Asmundson moved, seconded by S. Souza, approval of the City Council agenda as submitted. The motion passed by a unanimous vote.

Ceremonial Presentations The Davis High School Advanced Choir sang and the Girl Scouts spoke on behalf of UNICEF. Verona Borton presented a United Nations flag to the city.

Mayor Greenwald presented a proclamation recognizing October 24, 2006 as United Nations Day and the week of October 24-31 as Support UNICEF Week to Verona Borton.

Brief Communications Long Range Calendar: the joint meeting schedule with the commissions was discussed. It was requested to reschedule the Recreation and Park Commission meeting due to a SACOG meeting that night and that the Finance & Budget Commission be scheduled on a non-commission meeting date. It was requested that the Council meet with the City/UCD Student Liaison Commission and their March 14, 2007 meeting was acceptable to all Council members.

AB1234 reporting: S. Greenwald, D. Saylor and R. Asmundson all attended the Town Gown event at UC Davis.

Public Comments Comments and concerns expressed by citizens:

- John Crowe spoke regarding the Willowbank item on the agenda and he recommends that the Council approve what is being presented later in the meeting as it is an excellent compromise.
- Walter Howell asked that the petition he submitted on Willowbank #9 to have a street named after his grandmother be followed up on.
- Proposition 1C and how it would benefit Davis citizens
- Measure K and what it will do to Davis and that there has not been enough time spent on cleaning the site.
- Newly appointed ASUCD member, J. Burston would like to work with the Council to strengthen the relationship between the city and UC Davis.
- Concern over comments made by S. Greenwald and her lack of professionalism regarding her comments in The Aggie newspaper by calling her colleagues children.

- Excerpts were read from a speech given on free speech and the right of people to speak their minds. To suppress free speech is two wrongs, it robs a man to his right to say and hear what people have to say.
- Bob Aaronson, the Police Ombudsman introduced himself to the Council and community.

Consent Calendar

Resolution 06-190 accepting bid of \$29,570.40 from Diamond Truck Body Co. for four truck utility bodies
Approved

Resolution 06-191 authorizing the City Manager to execute Amendment No. 3 to the consultant agreement with Winzler & Kelly Consulting Engineers for Well 29 quality investigation
Approved

Budget Adjustment #26 (\$29,300) – allocating funds from Water Capital Replacement
Approved

Resolution 06-192 awarding a contract of \$533,725 to Harrison Construction for Public Works modular building, CIP No. 8512
Approved

Budget Adjustment #27 (\$228,000) – allocating funds from non-vehicular replacement
Approved

City-UCD Student Liaison Commission regular meeting minutes of June 7, 2006
Informational

Civic Arts Commission regular meeting minutes of September 11, 2006
Informational with the exception of the following:

- Approved proposal submitted by Nelson Gallery Director Renny Pritikin to curate a series of public art installation and performance-based visual art pieces in downtown Davis;
- Approved Budget Adjustment #28 allocating a maximum of \$20,000 from the Municipal Arts Fund to contract with The Nelson Gallery for all program expenditures and staff time;
- Directed staff to work with Director Pritikin and the Civic Arts Commission to develop and implement the program

Planning Commission regular meeting minutes of July 12 and August 9, 2006
Informational

Tree Commission regular meeting minutes of September 21, 2006
Informational with the following exception:

- Approved commission recommendations relative to tree removal requests

Second Reading: Ordinance 2271 amending Article 37.020.070(e) of Chapter 37 of the Davis Municipal Code relating to the Tree Commission – Appeal of Permit Decision
Adopted (introduced 10/03/06)

Second Reading: Ordinance 2272 amending Section 22.08.310 of the Davis Municipal Code relating to no parking – Picasso Avenue
Adopted (introduced 10/03/06)

New/Revised Job Specifications – Parks & General Services Clerk; Social Services Program Coordinator; Community Services Superintendent; Social Services Superintendent
Approved

D. Saylor moved, seconded by R. Asmundson, approval of the consent calendar as listed above and passed by the following vote:

AYES: Asmundson, Heystek, Saylor, Souza, Greenwald
NOES: None

Appointment of Dr. Robert Washino as the city of Davis representative to the Sacramento-Yolo Mosquito and Vector Control District

D. Saylor moved, seconded by R. Asmundson, approval of the above appointment and passed by the following vote:

AYES: Asmundson, Saylor, Souza, Greenwald
NOES: None
ABSTAIN: Heystek

Items removed from Consent Calendar:

2006/07 First Quarter administratively approved budget adjustments – pulled by S. Souza to point out donations that were given to the city.

S. Souza moved, seconded by R. Asmundson, to accept of the 2006/07 First Quarter administratively approved budget adjustments and passed unanimously.

Update of Development Impact Fee Model was pulled and scheduled for the regular calendar at the October 24, 2006 meeting.

City Council minutes from the regular meeting of September 19, 2006 pulled by L. Heystek. Under AB1234 reporting, L. Heystek reported attending the League of California Cities Conference. (This reporting was included in the September 12, 2006 Council minutes.)

L. Heystek moved, seconded by D. Saylor, approval of the City Council minutes of the September 19, 2006 meeting and passed unanimously.

Public Hearing: Old North Davis Neighborhood "N" Permit Preferential Parking District One Year Evaluation

S. Greenwald and K. Ueda stated they have conflicts due to the location of their residences and left the room.

R. Namazi gave the background on the item and recommended approval.

The public hearing was opened.

Resolution Superseding Resolution 04-244, Series 2004, to Increase the Number of Permits Issued from 1 to 2 Permits

Heather Martin, speaking on behalf of the North Davis Neighborhood Association, advised that the district was designed to be unique in order to share parking with shoppers and students. The idea of one space per household was to allow residents to park close to their homes. Every address should be allowed to renew their permit annually. If somebody does not need the permit after two months, then those permits could be allowed to be sold to other residents, up to 85% of the available marked spaces. During the survey times, there were a lot of open spaces and this shows the program is working. The neighborhood association does not support two permits per address because it could end up that only 50 percent of the residents would be allowed to obtain permits.

A schematic of the neighborhood was shown to the Council. It was noted that you can work out of your home but not have a business except on G Street. B. Emlen stated that there are some home businesses that have very limited foot traffic.

With no further comments, the public hearing was closed.

D. Saylor moved, seconded by S. Souza, to maintain the current permit system for the first two months allowing a second permit to be issued to residents and businesses on a first-come basis up to 225 permits.

Substitute motion by L. Heystek, seconded by S. Souza to approve Resolution 06-193 with the following change: to maintain the current system for the first two months after which, second permits could be issued to residents and businesses up to 85% of the 178 marked spaces. The motion passed by the following vote:

AYES: Asmundson, Heystek, Saylor, Souza,
NOES: None
ABSENT: Greenwald

The Council took a short recess.

Public Hearing: Tobacco Retail License

K. Stachowicz provided the background on the item. The city and county worked together on this item and the county will be responsible for administration, implementation and enforcement.

Ordinance Amending Chapter 34 of the Davis Municipal Code to Add Article 34.06 and to Adopt and Incorporate by Reference Chapter 15 of Title 6 of the Yolo County Code Concerning Tobacco Retail Permits

S. Jenson, Yolo County Health Coordinator gave a short PowerPoint presentation on the program.

Letters were sent to vendors with the proposal and all of the rules and regulations for public hearings were followed.

In the ordinance under Additional Enforcement; the penalties listed are for the vendors whose license has been revoked and the owner continues to sell tobacco. Changes that the Board of Supervisors made to the original ordinance proposed are as follows:

Less restrictive – first offense penalty

More restrictive – No sales from ice cream trucks.

– If you sell alcohol to be consumed on the premise, you cannot buy a permit.

Resolution Approving Agreement Between City of Davis and County of Yolo for Tobacco Retail Permit Administration Services

The public hearing was opened.

T. Lott, a downtown business owner, addressed his concerns with sections 6-14 and 6-15 of the ordinance. He feels a meeting between the merchants and the city staff would be beneficial.

S. Kumar, Olive Market owner, addressed his concerns that those purchasing tobacco for the minors and the minors using the tobacco should be looked into.

Mr. Moondy is a business owner addressed his concerns that when cashiers get extremely busy mistakes can happen. He pointed out that this is harsher than alcohol laws.

C. Smokel supports the retail licensing as it will prevent children from purchasing tobacco and that the ordinance sends a message to the Davis community that tobacco use is unacceptable.

W. Higgins stated that this is not a new problem, when he did this from 1997-2000, the rate of sales was thirty percent; tobacco licensing is a way to get rid of the problem.

D. Greenwald reminded the City Council that these businesses are grossing over \$300,000 per year on products that are killing people. It is already illegal to sell tobacco to minors and there is no need for a grace period.

J. Owen advised that this is an important for the health of the children. Kids are buying cigarettes in Davis and, the retail licensing provide a mechanism that will allow the city to enforce the law that says no sales to minors. There are a growing number of cities that have adopted tobacco retail licensing which has caused a decrease in sales to minors. Most importantly it is crucial to adopt such an ordinance in order to protect children from getting addicted and suffering the consequences.

B. Visteco spoke in favor of the ordinance. Most of the diseases that are seen in patients is related to the early onset of smoking addiction. Cigarettes contribute to fires, such as the Oakland Hills fire.

C. Martin stated that this is an ordinance that works. She worked on the Sacramento ordinance and the significant drop in sales proves that it works. The only thing that appears to work is enforcement.

B. Fynn has seen this law work successfully. There is not a family that is not affected by cigarettes in one way.

With no further comments the public hearing was closed.

D. Saylor moved, seconded by R. Asmundson, approval of staff recommendations 2 and 3, which are:

#2. Introduce ordinance to create tobacco retail license.

#3. Approve resolution to authorize City Manager to sign agreement between City of Davis and County of Yolo for Tobacco Retail Permit Administration Services.

K. Ueda addressed the issue brought up regarding signage and damages that could be incurred by civil action (sections 6-15.10 b2 and 16-15.15 f).

T. Lott voiced his concerns again regarding general public damages.

Substitute motion by S. Souza, seconded by R. Asmundson to accept the ordinance in concept but to bring the ordinance back at a future meeting with sections 6-15.10 and 6-15.15 tightened up to take away from the over punitive nature of the sections.

The substitute motion passed by the following vote:

AYES: Asmundson, Heystek, Saylor, Souza, Greenwald

NOES: None

The Council took a brief recess.

Public Hearing: University Mall/737-885 Russell Boulevard; Arco Auto Service Station/705 Russell Boulevard; and Rite-Aid Pharmacy/655 Russell Boulevard – Negative Declaration; Zoning Amendment; Final Planned Development; Determination of Public Convenience or Necessity

Ordinance Amending Ordinance 1935, to Amend Preliminary Planned Development Amending

K. Hess gave a brief introduction on the item and explained what was before the Council. This item allows construction of a 12,000 square foot building however does not guarantee any specific tenant. C. Camacho walked the Council through the applications. The Planning Commission unanimously recommended the entitlements with the elimination of ground floor office space and requested that staff be directed to work with Radiological Associates of Sacramento "RAS" to find a more suitable site for relocation not within the center.

Council asked numerous questions of staff and the applicant.

The public hearing was opened.

M. Chase, the attorney for RAS, advised that RAS has been at the location since 2003. They have invested more than \$1.4 million for improvements of the site, according to their numbers. They have a current lease which expires in 2010 with a seven year option to extend which would put them at the center until 2017. Their main concern is patient accessibility. They average 5-7 patients per hour and most are feeble; being close to the front door is critical to the patients. The only place suitable at the mall is their currently location. Moving a radiological facility is not an easy task. The movement of large metal objects, such as trucks, could affect their services.

D. Greenwald pointed out that Westlake Village has a vacant building that could accommodate

Permitted, Accessory and Conditional Uses and Revising General Requirements from Planned Development #2-97 to #2-97B

Trader Joes. He is concerned about the intersection of Sycamore and Russell because it is already an issue. Parking is also a concern for this location. He likes the idea of Trader Joes, just not this location.

The owner of Teriyaki Express at University Mall received a 30 day notice to vacate from the owner of the mall. He is the first victim of making room for RAS inside the mall.

With no further comments the public hearing was closed.

L. Heystek moved, seconded by R. Asmundson to adopt staff recommendations 2 and 3 using the proposed ordinance with 10,000 square feet, which are:

- #2. Adopt Negative Declaration #01-06; and
- #3. Approve PA #123-05: Zoning Amendment #05-05; Final Planned Development #06-06; Determination of Public Convenience or Necessity #02-05, based on the findings and subject to the conditions contained in the staff report.

The motion passed by the following vote:

AYES: Asmundson, Heystek, Saylor, Souza, Greenwald
 NOES: None

Continued Public Hearing: Council Subcommittee Status Report – Appeal of Planning Application #92-05 and Phased Allocation #01-15 for 24 Market-Rate Lots in the Willowbank Unit #9 Subdivision Located Northwest of Mace Boulevard and Montgomery Avenue

R. Rowland and the subcommittee (D. Saylor and L. Heystek) reported on the outcome of their work with the issue.

Language could be inserted as a bullet point as a condition of approval that there be a minimum of 31 units. There is a planning process that has to take place after tonight and the proposed language would allow the process to move forward.

The continued public hearing was opened.

T. Ruff the applicant stated that the allocation process has been going on for some time. The plants at the park have all been planted. Under the plan there will be some variation, but there will not be anything over 19,000 square feet. Approval tonight would allow this project to go forward and go to the Planning Commission.

T. Graham appreciated the visits of the sub-committee. They were obligated to do certain things prior to move in. The Council failed to obtain Covell Village and why are they now approving this density. This choice was not allowed when he moved in.

Mr. Moondy stated he built a home there because this area would be the same. It was approved in 1998 and he does not understand why the Council is addressing this when it was already approved by a previous Council? Why can't somebody build a large home in that area?

With no further comments the public hearing was closed.

S. Souza moved, seconded by D. Saylor, approval of Resolution 06-194 a resolution authorizing an improvement agreement to ensure completion of greenbelt improvements in the first phase of the Willowbank Unit #9 subdivision. The motion passed by the following vote:

AYES: Asmundson, Heystek, Saylor, Souza, Greenwald
 NOES: None

D. Saylor moved, seconded by L. Heystek to uphold the appeal of Planning Application #92-05 and Phased Allocation #01-05 for the allocation of Phase II in the Willowbank Unit #9 subdivision based upon the findings and subject to the conditions, to adopt the attached resolution allocation of 31 units for construction in 2006-07 for the Willowbank Unit #9 Subdivision, and to

direct the property owner to submit applications for the second phase of the Willowbank Unit #9 subdivision, with the development agreement main points.

Substitute motion by R. Asmundson, seconded by S. Greenwald that the lot size should be a maximum of 8,000 square foot. The substitute motion failed by the following vote:

AYES: Asmundson, Greenwald
NOES: Saylor, Souza
ABSTAIN: Heystek

The main motion passed by the following vote:

AYES: Heystek, Saylor, Souza
NOES: Asmundson, Greenwald

Adjournment

The meeting adjourned at 12:11 a.m. in memory of Charles Rominger.

Margaret Roberts, CMC
City Clerk