

MINUTES OF THE DAVIS CITY COUNCIL
Meeting of January 27, 2009

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 Asmundson.

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

Councilmembers Absent: None

Other Officers Present: City Manager Bill Emlen, City Attorney Harriet Steiner, City Clerk Zoe Mirabile

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

1. Conference with Real Property Negotiators:

Property: Miles-Kidwell Farm Easement; APNs 110-150-010, 110-090-110, 110-090-130, and 110-090-140

Negotiating Parties: Denny E. Kidwell and Ruby E. Kidwell Trust

Property: McIsaac Easement; APN 037-030-17

Negotiating Parties: McIsaac Farms, Inc.

Agency Negotiators: City Attorney Harriet Steiner and Sustainability Program Manager Mitch Sears

Under Negotiation: Price and terms of payment

2. Conference with Legal Counsel – Existing Litigation:

A. Union Pacific v. City of Davis, CV05-903

B. Davis Enterprise, Inc. v. Fairfield Publishing Company, et al, Yolo County Superior Court Case No. CV06-68

C. Lewis v. Russell, Federal District Court Civ.S – 032646 WBSKJM

City Council returned to open session at 6:35 p.m. Mayor Asmundson announced there was no reportable action.

Approval of Agenda

S. Greenwald moved, seconded by S. Souza, approval of the agenda as amended to reorder discussion items as follows: remove Update on Chemical Pesticide Trichloropropane (TCP) Contamination Investigations in Mace Ranch from consent calendar and reschedule as the first regular item, and move Update on Contract with Pence Gallery for Administration of Civic Arts Programs to before workshops. Motion passed unanimously.

Ceremonial Pres- L. Heystek moved, seconded by S. Souza, to affirm the Business and Eco-

entation: Proclamations Honoring Recipients of the 2008 Business and Economic Development Awards

conomic Development Commission recommendations regarding the 2008 Business and Economic Development Awards recipients as follows:

- Business or Organization: Schilling Robotics
- Individual: Janis Lott, Newsbeat
- Extended Excellence: Chuck Roe, Pyramid Construction

Motion passed unanimously.

All Councilmembers presented awards.

City Council recessed for a reception at 6:51 p.m. and reconvened at 7:08 p.m.

Public Comments

Rand Herbert, Historical Resources Management Commission (HRMC), spoke regarding the Request for Rehearing of Planning Applications at 233 B Street and reminded Council that both HRMC & Planning Commission opposed the project because it does not follow the Design Guidelines. If project to be reconsidered, then it should return to both commissions before going to Council.

Teresa Jamison spoke regarding the size and noise of skateboards and ramps in her neighborhood, and requested Council consider an ordinance limiting size of backyard skateboard apparatus.

Hyatt Cummings and Dana Percoco, ASUCD External Affairs Commission, stated they have been assigned as delegates to attend City Council meetings.

Vijay Kumar spoke regarding the wastewater treatment plant project. Comments included: Regional Board will grant the city's extension request due to recycling efforts; outlined options and cost that needs to be addressed when presenting extension request to Regional Board; NPDES permit is up for renewal October 2012 and City will be able to renegotiate terms in 2012; suggested City tour Woodland's plant, then Monterey's because recycled water is used to grow crops.

Consent Calendar

Resolution No. 09-002 - Approving Funding for and Authorizing the City Manager to Complete the Acquisition of a Conservation Easement on the Miles/Kidwell Properties for the Purposes of Permanently Protecting the Agricultural Values and Open Space Character of the Property
Approved

Budget Adjustment #68 (\$575,000) – Allocating Project Funding into Escrow for Deposit and Completion of Acquisition of the Easement
Approved

Resolution No. 09-003 - Approving Award of the 2009 Civic Arts Contracts Under the City's Civic Arts Contracts Program and Authorizing the City Manager to Enter into Contracts with Award Recipients

Approved

Resolution No. 09-004 - Approving and Authorizing the City Manager to Sign Second Amendment to the Subdivision Agreement for Willowbank Unit No. 10, Subdivision No. 4880 (Community Property Trust Agreement and Declaration of Trust, Consisting of Survivor's Trust, Bypass Trust, and Disclaimer Trust)

Approved

Budget Adjustment #66 (\$233,392) – Allocating Office of Emergency Services Funding for Reimbursement of Fire Department Strike Team Response

Approved

Budget Adjustment #70 (\$36,240) – Allocating Local Business and Individual Donations Submitted to Offset Cost of the Amgen Bicycle Tour of California Event

Approved

Department of Homeland Security Grant for Fiscal Year 08/09 – Participation with the Cities of Woodland and West Sacramento in Cooperative Process of Reviewing, Revising and Updating Each Jurisdiction's Large Scale Emergency Operations Plan and Identifying Areas to Integrate Preparedness Planning and Building Planning Processes Among Communities

Approved

Commission Minutes:

1. Bicycle Advisory Commission Meeting of December 1, 2008
2. Civic Arts Commission Meeting of December 8, 2008
3. City-UCD Student Liaison Commission Meeting of December 3, 2008
4. Finance and Budget Commission Meeting of December 8, 2008
5. Historical Resources Management Commission Meeting of November 24, 2008
6. Planning Commission Meeting of November 12, 2008
7. Safety and Parking Advisory Commission Meetings of November 6 and December 4, 2008
8. Senior Citizens Commission Meeting of November 13, 2008

Informational

Fiscal Year 2008/09 Second Calendar Quarter Administratively Approved Budget Adjustments

Informational

Fiscal Year 2007-08 Public, Education, and Government Media Partner Year End Reports Regarding Use of Cable Franchise Funding and Accomplishments for City of Davis Media Services, Davis Joint Unified School District, and Davis Media Access

Informational

Update on Mace Parke Project/2990 Fifth Street Land Dedication Site – January Quarterly Check-in

Informational

Preliminary Forecast of Anticipated Changes in Fiscal Year 09/10 Utility Rates

Informational

D. Saylor moved, seconded by L. Heystek, to approve the consent calendar as listed above. Motion passed unanimously.

Items removed from consent:

Removed by L. Heystek.

Resolution Approving Employment Agreement with City Manager

L. Heystek moved, seconded by D. Saylor, to approve Resolution No. 09-005 - Approving Employment Agreement with City Manager William F. Emlen. Motion passed unanimously.

By consensus, Council agendized a discussion of the City Manager’s residency requirement. City Attorney Harriet Steiner stated staff can bring back a code amendment for consideration within a few weeks.

Request for Rehearing of Planning Applications at 233 B Street

S. Greenwald recused herself due to conflict of interest as she owns property on Rice Lane and left the room.

Community Development Director Katherine Hess explained the applicant requested reconsideration of planning applications to develop four detached residences on the parcel at 233 B Street due to a possible conflict of interest. Staff recommends City Council grant the request.

Maria Ogrydziak, applicant, outlined reasoning for request for reconsideration.

Rhonda Reed spoke in opposition to the project as it does not comply with neighborhood guidelines.

Maynard Skinnard requested Council ask the applicant to work with the neighborhood to come to a consensus on project details before it is brought back for rehearing.

D. Saylor moved, seconded by L. Heystek, to waive fees and promptly schedule before the City Council a public hearing on a resubmitted design review application for the B Street Townhouses at 233 B Street.

L. Heystek proposed a friendly amendment to request the applicant work further with the neighbors to modify the design. Not accepted by mover of the

motion, so second rescinded.

K. Hess stated if the design changes dramatically, the project should go back to Historic Resources Management Commission (HRMC) and Planning Commission (PC).

D. Saylor moved, seconded by R. Asmundson, to waive fees and promptly schedule before the City Council a public hearing on a resubmitted design review application for the B Street Townhouses at 233 B Street.

S. Souza moved substitute motion, seconded by L. Heystek, to uphold the request for rehearing and direct applicant to work with the neighborhood and the original design, then to take the project through the HRMC and the PC. Motion passed by the following vote:

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

Staff clarified that the recommendation includes a waiver of fees.

S. Greenwald returned to the dais.

City Attorney Harriet Steiner stated City Council should decide on a process to use in deciding on conflicts of interest based on specific types of financial impacts of projects.

D Saylor moved, seconded by R. Asmundson, to direct staff to bring back a framework on Conflict of Interest rules and a comparison of other jurisdictions. Motion passed with the following votes:

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

Update on
Chemical Pesticide Trichloro-
propane (TCP)
Contamination
Investigations in
Mace Ranch (ad-
jacent to Frontier
Fertilizer Super-
fund Site) / Rela-
tionship to Target
Project Construc-
tion

Principal Planner Michael Webb provided background on the site, which was designated in the 1990s as a Superfund site by the U.S. Environmental Protection Agency (EPA) because of groundwater contamination 30-100 feet below ground. The Frontier Fertilizer Site Oversight Group (FFSOG) is a citizens committee that works with the EPA to monitor the status of the project, and inform the community of clean up efforts including monitoring and extractions. The next phase of the project will be soil remediation, with public outreach taking place during the summer.

The Target proposal included relocation of groundwater monitoring wells; EPA and Target reached an agreement as to how relocation will occur. TCP was detected in groundwater samples on the eastern portion of the site, and EPA submitted a letter outlining further investigation efforts and explaining

that efforts can take place at the same time as construction by Target.

R. Asmundson reported that the City-County 2x2 discussed this issue and Jim Provenza and Don Saylor were appointed as liaisons to the Frontier Fertilizer Superfund Oversight Committee.

D. Saylor explained that activities are underway to provide for a more active and visible presence of the city and county, including a workshop to be held by EPA planning community, additional outreach, legal review of the stipulated agreement between EPA and Target to verify protections are properly in place, and encouragement of a testing prioritization zone in the area between the Target store and residential neighborhood.

County Supervisor Jim Provenza stated it is important for city and county to ensure maximum protection for the public.

Elly Fairclough, Congressman Mike Thompson's office, reported that \$12 million in federal funding will provide for further cleanup efforts and encouraged Council to submit a request for this project as the top priority for city funds.

Pam Neiberg, Oversight Committee, reported TCP was detected at the eastern boundary of the site, and the EPA does not know the source or future movement. Requested the city send a letter to EPA supporting concerns of Oversight Committee regarding health threats, requesting EPA conduct necessary groundwater sampling in areas of concern regarding TCP, assessing whether groundwater flows to the north, and closely monitor the situation regarding Target development. Also, requested city ensure compliance with EPA directives.

L. Heystek moved, seconded by S Souza, to direct staff to prepare a letter supporting oversight committee concerns regarding health threat and calling for additional groundwater sampling.

S. Greenwald offered a friendly amendment to send a copy of the letter to Target, reiterating that Target has been informed of the risk and accepts liability associated with site location. Accepted by mover and second. Motion passed unanimously.

S. Souza moved, seconded by L. Heystek, to affirm the City-County 2x2 appointment of Don Saylor as the city representative to Superfund Oversight Committee. Motion passed unanimously.

Public Hearing: Community Services Superintendent Christine Helweg provided an overview of the proposed fees.
Resolution Establishing Fees for Recreation Activities: Mayor Asmundson opened the public hearing.

ties and Aquatic Facility Use for Fiscal Year 2009/10 for the Community Services Department

Joe Sherman stated he was deprived of his rights at Open Gym Basketball.

Carolyn Hinshaw requested staff find a way to maintain the lap swim program during the school year. Suggested increasing fees instead of eliminating the program altogether, combine programs at multiple pools so that not all pools need to be heated at the same time.

Brian Pong spoke in favor of retaining lap swim. Questioned the fixed cost, suggested looking at a lower tech approach and expanding the lap swim program.

Michael Bartolic spoke in support of cost recovery efforts, but concerned there is only one program for teens that is not cost based. Requested Council defer a decision on the Open Gym program until it can be framed in context of 3rd & B future reuse options.

Mayor Asmundson closed the public hearing.

D. Saylor moved, seconded by S. Souza, to approve Resolution No. 09-006 - Establishing Fees for Recreation Activities and Aquatic Facility Use for Fiscal Year 2009/10 for the Community Services Department, and associated program changes, with the following exceptions:

1. Defer action on level 1 reduction proposals
2. Defer action on lap swimming until further review on budget issues and other matters
3. Request Recreation and Park Commission look at staff recommendations added after commission analysis

Motion passed unanimously.

Appeal of October 16, 2008 Tree Commission Actions:

Urban Forest Manager Rob Cain outlined Tree Commission decisions and reasoning.

Decision to Retain Chinese Tallow Tree at 2318 Elendil Lane

Charlene Payne, resident at 2318 Elendil Lane, requested appeal based on: (1) small lot, (2) roots invade sewer line, and (3) currently remodeling house with proposed courtyard which needs improved drainage. Requested replacement with a Gingko tree.

S. Greenwald moved, seconded by D. Saylor, to uphold the decision of the Tree Commission to retain Chinese Tallow Tree at 2318 Elendil Lane. Motion passed unanimously.

Decision to Retain European Olive Tree at 1616 Da Vinci Court

S. Souza moved, seconded by S. Greenwald, to retain the European Olive Tree at 1616 Da Vinci Court, plant subsequent trees on either side of subject tree, with direction to return in due time with a recommendation to remove once tree has reached a considerable life expectancy. Motion passed unanimously.

Update on Contract with Pence Gallery for Administration of Civic Arts Programs

Community Services Director Elvia Garcia-Ayala explained that the Pence Gallery contract arose out of need to fill staff vacancy. The Civic Arts Commission expressed concern over the agreement, noting inefficiencies, programs inadequately provided for, and the public perception that programs were conducted by Pence, not city. Staff recommends continuing the previously approved contract through the end of the fiscal year and directing staff to bring back a recommendation for the remainder of the two-year agreement period as part of the 09-10 budget development process.

Natalie Nelson, Pence Gallery Director, outlined administration efforts and how they related to Civic Arts Commission.

Roy Engoran, Civic Arts Commission, reported that the Commission opposed the contract.

D. Saylor moved, seconded by S. Souza, that the City run through the life of the contract, pending any specific recommendations during the 2009-2010 city budget development process, with additional direction that the Civic Arts Commission Chair and the Pence Gallery Director work with staff to clearly understand expectations for contract to be fulfilled. Motion passed by the following vote:

AYES: Greenwald, Saylor, Souza, Asmundson

NOES: Heystek

Budget Workshop: Continued Discussion from 12/9/08 Workshop – Priorities for Refinement of Long-Range Financial Planning Framework Related to Renewal of Existing Voter-Approved Tax Measures and Unmet Funding Needs

Assistant City Manager Paul Navazio outlined budget priorities for a long-range planning framework, including:

- Maintaining a balanced operating budget – ensuring that the City can continue to provide current level of services with the existing revenue sources
- Preserving current revenue sources subject to expiration/renewal, contingent on voter-approval
 - Half-Cent Sales Tax (Measure P) – Expires June, 2010
 - Parks Maintenance Tax (Measure G) – subject to renewal June, 2012
- Developing appropriate funding strategies to address priority unmet needs not provided for in the current budget

City Council provided feedback to staff including:

- consider eliminating the Parks Maintenance Tax and instead increasing the Sales Tax enough to cover loss
- lobby for internet sales and services taxing to expand the sales tax base
- hire a lobbyist or join other jurisdictions in hiring a lobbyist

Sustainability Workshop: Strategy for Scaling a Community En-

Sustainability Program Manager Mitch Sears provided an overview of implementation strategies for expansion of the Davis Low Carbon Diet program to address Greenhouse Gas emissions from existing housing.

agement Program to Reduce Greenhouse Gas Emissions

City Council provided feedback to staff including:

- make education to the community the focus of relevant commissions
- consider UC Davis resources to administer program
- one-page advertisement in the Focus
- public engagement using SACOG model
- suggest Climate Action Team form a subcommittee to discuss public engagement efforts
- recruit volunteers to administer the program
- seek grant funding

Brief Communications

D. Saylor reported the Cities/Counties/Schools Partnerships have a fiscal reform task force to work on state budget reform. Saylor was asked by the League of California Cities to represent cities on the task force.

R. Asmundson reported that the Business and Economic Development Commission/City Council joint meeting would provide an opportunity to provide clear direction as to what the Commission should be working on.

AB1234 Reporting

R. Asmundson attended the IPM Innovative Management Award Ceremony.

Long Range Calendar

R. Asmundson requested Council agendaize a discussion of prostitution arrests and potential massage parlor regulation.

L. Heystek suggested this should be an informational item on consent calendar.

By consensus, Council agreed to agendaize an informational item.

Adjournment

The meeting was adjourned at 12:25 a.m.

Zoe S. Mirabile, CMC
City Clerk

MINUTES OF THE DAVIS REDEVELOPMENT AGENCY BOARD
Meeting of January 27, 2009

The Redevelopment Agency Board of the City of Davis met in regular session beginning at 6:35 p.m. in the Community Chambers, 23 Russell Boulevard, Davis, California. The meeting was called to order by Board Chair Asmundson.

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

Board Members Absent: None

Other Officers Present: Executive Director Bill Emlen, City Attorney Harriet Steiner, City Clerk Zoe Mirabile

Approval of Agenda S. Greenwald moved, second by S. Souza, approval of the agenda. Motion passed unanimously.

Public Comment None

Consent Calendar Update on Mace Parke Project/2990 Fifth Street Land Dedication Site – January Quarterly Check-in
Informational

D. Saylor moved, seconded by L. Heystek, to approve the consent calendar as listed above. Motion passed unanimously

Adjournment The meeting was adjourned at 12:25 a.m.

Zoe S. Mirabile, CMC
City Clerk