

MINUTES OF THE DAVIS CITY COUNCIL
Meeting of March 3, 2009

The City Council of the City of Davis met in regular session beginning at 6:33 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, Sue Greenwald, Lamar Heystek,
Don Saylor, Stephen Souza

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

- Approval of Agenda S. Greenwald moved, seconded by D. Saylor approval of the agenda. Motion passed unanimously.
- Ceremonial Presentation Mayor Asmundson presented Proclamation in Recognition of "Spay Day USA 2009".
- Councilmember Greenwald presented Proclamation Declaring March 2009 as "Women's History Month" for "Women Taking the Lead to Save Our Planet: Then and Now".
- Public Comments Matt Williams questioned the projected costs for the sewage treatment plant project as well as the proposed utility rate structure, and spoke in support of the affordable housing New Harmony project.
- Leo Ranier reported that Davis Bicycles! will be hosting a workshop on Complete Streets.
- Steve Jerome Wyatt, Affiliated Obsidian Nation, a native American human rights group, requested City Council agendaize a discussion of DQ University for the next regularly scheduled meeting, specifically to reinstate bus service to the school. S. Greenwald responded that Yolo County Transportation District would be the appropriate jurisdiction for this matter.
- Lupita Torres, Student Body of DQ University, requested City Council address the lack of bus service at the campus.
- Joe Sherman quoted biblical scripture.
- Consent Calendar Resolution No. 09-013 - Authorizing the City Manager to Execute Amendment No. 3 to the Agricultural Lease with Dick Dettling for Use of the Howat Ranch
Approved

Budget Adjustment #85 (\$38,250) – Allocating Local Business and Individual Donations Submitted to Offset Cost of the Amgen Bicycle Tour of California Event

Approved

Second Reading: Ordinance No. 2333 - Amending Chapter 40 of the Davis Municipal Code Amending Planned Development #3-89, Area H Low Density Residential – Haussler Property for the Property Consisting of Approximately 0.8 Acres Located on the North Side of Covell Boulevard, South of Moore Boulevard, East of Whistler Court and West of Sargent Court

Adopted (Introduced 02/17/2009) by the following vote:

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

Update on Planning Commission Review of the Aikin Townhouses Project Tentative Map (PA#21-08) at 311 and 315 B Street

Item removed from agenda (to be rescheduled)

City Council Minutes from the Meetings of October 7 and December 2, 2008

Approved

Commission Minutes:

1. City-UCD Student Liaison Commission Meeting of January 14, 2009
2. Civic Arts Commission Meeting of January 12, 2009
3. Finance and Budget Commission Meeting of January 12, 2009
4. Historical Resources Commission Meetings of December 15, 2008 and January 26, 2009
5. Safety and Parking Advisory Commission Meeting of January 8, 2009

Informational

Update on Partners for a Greener Davis – Green Business Program

Informational

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

New Harmony
Affordable
Apartment Com-
munity – General
Plan Amendment,
Specific Plan
Amendment, Re-
zone, Final
Planned Devel-

Assistant Planner Eric Lee provided details of the proposed project for 69 rental apartment units for low- and very-low income households located on a 0.75-acre land dedication site, and explained that on November 5, 2008, City Council directed staff to prepare an Environmental Impact Report (EIR) for the project.

The EIR public review period included analysis by the Planning Commission and the Natural Resources Commission, and staff consulted with SACOG and the Air Quality Management District, as well as with Sierra Research, a third

opment, Design Review, Tentative Map, Minor Modification, Planning Commission Appeal and Environmental Impact Report (EIR)

party research consultant. The EIR determined that health impacts will be less than significant with mitigation based on air quality studies and LSA health risk assessments for project. The site was compared to proposals from other jurisdictions, including Sacramento and San Francisco. The most relevant factors were the site specific studies for project, which were determined to be accurate, reasonable, and appropriate.

Kirk Trost, SACOG, and Rachel Iskow, Sacramento & Yolo Mutual Housing Association, spoke in support of the project. Comments included: project meets many of the goals of the SACOG regional blueprint, which creates a vision for the region to blend smart land uses and transportation investments; SACOG recognizes health concerns with the placement of residential housing close to freeways and tries to work closely with regional air quality districts to approve a set of protocols to determine risks and appropriate mitigation measures; and staff has identified the necessary protocols and engaged a health risk assessment.

Whit Manley, legal counsel for Sacramento & Yolo Mutual Housing Association, stated the project is well designed and as mitigated will not have significant noise impact. LSA performed risk assessments and Dr. Cahill conducted a peer review. The 2007 study by Gauderman et. al. in the British medical journal, *The Lancet*, should not trump site specific studies and other jurisdictional guidance.

Torrey Bouvard, representing a group of residents, spoke in opposition to the project and submitted a neighborhood petition. Comments included: public notice should have been sent to a larger neighborhood area; property is zoned for business/light industrial; increased density leads to increased crime and traffic; design not in keeping with neighborhood; concentration of affordable housing in one general area; new students will attend Montgomery Elementary, where 31% of students already come from affordable housing; questioned whether apartment complexes should be built within 90 meters of a freeway because of health of residents; and Lancet study showed that proximity to highways damaged children's lungs.

City Attorney Harriet Steiner explained the EIR is an informational document, providing factual background and establishing standards of significance. It determines whether an impact is significant or less than significant and whether mitigation measures can make a project less than significant. If the Council thinks the EIR lacks information, or makes a finding that Council believes is incorrect based on evidence, then it can be denied. Council must have written findings based on substantial evidence in order to deny an affordable housing project.

Jerry Rubenstein, Sierra Research, questioned the air quality conclusions in the Lancet study, specifically regarding study models. The model used by Lancet

study authors was a screening model incapable of dealing with some factors or evaluating a year's worth of meteorological data.

Council recessed at 8:53 p.m. and reconvened at 9:01 p.m.

Julie Johansson; Nick Gorten; Christina Trujillo; Jonathan London; Stella Hayes, Owendale community representative; Shamus Roller, Sacramento Housing Alliance/Coalition on Regional Equity; and Mindy Ramarro and Chrissana Newbury, YMHA & SMHA, spoke in support of the project and submitted a neighborhood petition. Comments included: denial of the project invites a lawsuit; while air quality does affect children's health, it is statistically but not clinically significant; risks will be outweighed by benefits; many factors contribute to children's health; housing must stay stable in order to help people move out of poverty; denial of the project would cause environmental justice issues; no significant health impacts; project supports the regional blueprint and core values of the city;

Jay Terrossi; Allan Pryor, Yolo Clean Air; Robert Bain; Charles Bolliva; Dan Seaspell; Teresa Dillinger; Judy Randolph; Marilyn Bailey; and Peter Green spoke in opposition to the project. Comments included: location is inappropriate; potential increase in crime; health risks due to air quality; mitigation efforts have not been proven effective; neighborhood is full of apartment complexes; project will create traffic and impact city services; proposal to look at other locations to be rezoned as affordable housing sites; and Lancet study should not be dismissed.

Alex Kelter, Environmental Council of Sacramento, stated the project is a microcosm of the next 50 years of planning projects as we will need to build housing close to schools and transportation.

Gary Rubenstein, Sierra Research/California Air Resources Board, explained there are many factors affecting health risks, and after 500 feet from a freeway site, health risks drop off significantly.

Doug Fetterly stated health concerns must be top priority in review of this project.

Richard Sieman, Environmental Council Climate Change Air Quality Committee, stated the Lancet study focused on downwind locations and the upwind location of New Harmony is better quality. Also, crime issues should be addressed separately from zoning for affordable housing.

Yolo County Board of Supervisor Helen Thompson, Yolo-Solano Air Quality Management District/Chair SACOG, spoke in support of the project and noted that all elected officials participated in the SACOG blueprint project and Metropolitan Transportation Plan 2034 in order to reduce sprawl and conserve ag-

ricultural lands.

D. Saylor moved, seconded by R Asmundson, approval of Resolution No. 09-014 - Certifying a Final EIR (SCH #2008122091) for the New Harmony Apartment Project Located at the Southwest Corner of Cowell Boulevard and Drummond Avenue, which determined that potential impacts of the project, with mitigation, would be less than significant and adopting the Mitigation Monitoring Plan. Motion passed by the following vote:

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

D. Saylor moved, seconded by S. Souza, the following:

1. Approve the appeal of the Planning Commission's denial of the project (PA#61-07)
2. Approve Resolution No. 09-015 - to Amend the General Plan to Redesignate 3.38 Acres from "Business Park" to "High Density Residential"
3. Approve Resolution No. 09-016 - Amending the South Davis Specific Plan to Redesignate 3.38 Acres from "Industrial Research" to "Multi-Family"
4. Introduce Ordinance Amending Chapter 40 of the Davis Municipal code for Planned Development 12-87 to Rezone from "Industrial Research" to "Multi-Family"
5. Approve Planning Application #61-07 for the final planned development, design review, tentative map, and minor modification for the project based on the findings and subject to the conditions of approval contained in the staff report

S. Souza proposed a friendly amendment to add to Conditions of Approval, #11 Other Applicable Requirements, as follows: placement of appropriate size (possibly 15-gallon) tree for mitigation along Cowell Boulevard, monitor mitigation efforts, filter placement on regular basis to include logs of placement and regular maintenance, with inclusion of penalty for non-compliance. Accepted by mover. Motion passed by the following vote:

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

S. Souza moved, seconded by D. Saylor, to direct staff to return to City Council with an update on citywide crime statistics and a timeline for installation of amenities. Motion passed unanimously.

Council recessed at 10:48 p.m. and reconvened at 10:59 p.m.

Removed from
Consent Calendar:

Item removed by City Manager Bill Emlen.

Proposition 218
Mail Notification

Public Works Director Bob Weir provided an overview of the proposed rates and rate structure.

of Utility Rate Increases – Notice of Public Hearing to Set Rates for Sanitation, Water and Sewer Scheduled for May 5, 2009

Matt Williams questioned the sewer rate methodology, specifically regarding inclusion of irrigation in rates, and spoke in support of returning to fixed rates.

By consensus, City Council directed staff at the next regularly scheduled meeting with further analysis.

Ordinance Granting an Eighteen-Month Extension of Specified Land-Use Entitlements

City Manager Bill Emlen explained the proposed economic development package should help with financing upfront costs and facilitate small businesses downtown.

Don Phelps requested City Council defer fees and for a longer time timeframe.

D. Saylor moved, seconded by R. Asmundson, to introduce Ordinance Granting an Eighteen-Month Extension of Specified Land-Use Entitlements as part of Extensions for Construction of Development Projects. Motion passed by the following vote:

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

Ordinance for Deferral of Payment of Water and Sewer Connection Fees for Selected Residential Development Projects

S. Souza moved, seconded by D. Saylor, to introduce of Ordinance Amending Chapters 33 and 39 of the Davis Municipal Code Relating to Sewer and Water Connection Charges – Deferral Timing of Payment from Issuance of Building Permit or Final Map to Certificate of Occupancy for Selected Projects. Motion passed by the following vote:

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

Urgency Ordinance No. 2334 - Sewer Connection Fee Reduction for Reuse of Existing Non-Residential Space

S. Souza moved, seconded by D. Saylor, to adopt Urgency Ordinance No. 2334 to Take Effect Immediately Adding Section 33.02.042 to the Davis Municipal Code to Temporarily Reduce Sewer Connection Fees for Reuse of Existing Space for Nonresidential Purposes and Declaring that this is an Urgency Ordinance Necessary for the Immediate Preservation of the Public Health and Safety. Motion passed unanimously.

Brief Communications

S. Greenwald requested City Council agenda discussion of a solar farm and potential funding. Council concurred.

Long Range Calendar

R. Asmundson requested City Council agenda an urgency ordinance regarding the D-Zone Novelties shop, which is planning to move to Second and G Streets, as she is concerned over the nature of the goods sold in the shop. S.

Greenwald requested a review of the adult business ordinance. L. Heystek noted the City should enforce the tobacco retail license if applicable.

D. Saylor requested City Council agendaize a resolution on Green Schools. DJUSD is also considering a similar resolution.

D. Saylor will agendaize an item submitted by Councilmember: Amendment to noise ordinance to exempt schools and day care centers within normal business hours.

AB1234 Reporting

D. Saylor attended a meeting in Sacramento.

Adjournment

The meeting was adjourned at 12:22 a.m.

Zoe S. Mirabile, CMC
City Clerk