

MINUTES OF THE DAVIS CITY COUNCIL  
Meeting of May 19, 2009

The City Council of the City of Davis met in regular and special 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, Sue Greenwald, Lamar Heystek, Don Saylor, Stephen Souza

Councilmembers Absent: None

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

Closed Session City Council convened a closed session pursuant to Government Code §54954.5 for a Conference with Labor Negotiators:  
Agency Designated Representatives: City Manager Bill Emlen, Assistant City Manager Paul Navazio, Human Resources Administrator Melissa Chaney, City Attorney Harriet Steiner  
Employee Groups/Organizations: Davis City Employee Association, Davis Police Officers Association, Department Heads, Executive and General Management, Firefighters Local 3494, Police Lieutenants, Professional and Support Employee Association

City Council returned to open session at 6:30 p.m. Mayor Asmundson announced that City Council approved a set of guiding principles and objectives for negotiations related to employee compensation. The document was read into the record.

Approval of Agenda L. Heystek moved, second by S. Souza, approval of the agenda as amended to reorder agenda by moving the public hearing on CDBG and ARRA funding to later on the regular calendar. Motion passed unanimously.

Ceremonial Presentation Mayor Asmundson presented the following proclamations:  
1. Proclamation Recognizing May 2009 as Older Americans Month  
2. Proclamation Recognizing May 2009 as National Preservation Month

Public Comments Steve Tracy, Old North Davis Neighborhood Association, urged Council to accelerate the Fifth Street review process to meet the deadline for SACOG funding.

Greg Sokolow spoke in opposition to the Wildhorse Ranch development.

Phillip King, Wildhorse East Neighborhood Association, stated 40% of neighborhood residents are completely opposed to the Wildhorse Ranch devel-

opment, and 40% more have strong reservations.

Marcia Kreith, requested City Council pull the Yolo County Referral – KMJE/KDVS Communications Facility at 28150 Mace Boulevard item from the consent calendar, and suggested adding conditions regarding ensuring the project will not result in interference of reception of public radio station or public television broadcasts and that radiation from the project will not pose health risks.

Bobby Weist, President Davis Firefighters Local 3494, announced firefighters will participate in a “fill the boot” project and have organized a BBQ fundraiser for May 30.

Dave McKay, Tim Albin, Steve Strombler, Bridget Rummal, Linda Renault, David Lauchlan, Steve Hayes, and Eileen Samitz spoke in support of the original Cannery Park development proposal. Comments included: request Council ask the Hunt Wesson developer to renegotiate, request Council reconsider the original project, support concept of infill development, and project had widespread community support as a mixed use development.

Request City Council to Declare Emergency for Repairing Wastewater Main at County Road 30

City Engineer Bob Clarke explained that after staff found a hold in the road pavement at the sewer line at County Road 30, video inspection revealed significant infiltration and inflow of groundwater into the pipe, exposed rebar and aggregate within the pipe, and confirmation that the inflow has removed fines from around the pipe. He outlined staff recommendation for City Council to declare an emergency for purposes of repairing the wastewater main and to authorize an agreement for repairs and reconstruction for an estimated construction cost of \$230,000.

S. Souza moved, seconded by D. Saylor, approval of Resolution No. 09-049 – Making a Finding of Imminent Danger in the Vicinity of County Road 30 West of County Road 105 and Authorizing the City Engineer to Take Immediate Remedial Action. Motion passed unanimously.

Consent Calendar

Resolution No. 09-050 - Approving the Disadvantaged Business Enterprise (DBE) Program (Race Conscious) Implementation Agreement for Local Agencies for Federal Funded Capital Improvements Projects  
Approved

Resolution No. 09-051 - Authorizing the City Manager to Submit and Execute Five Federal Transit Administration (FTA) Grant Applications for the University of California-Davis, to Purchase CNG Buses, Partially Fund Annual Operating Costs, and Other Capital Improvements  
Approved

Second Reading: Ordinance No. 2338 - Amending Chapter 33.04.050-(A)

Residential of the Davis Municipal Code Relating to Sewer Rates – Effective August 1, 2009

Adopted (Introduced 05/05/2009)

Second Reading: Ordinance No. 2339 - Amending Chapter 39 of the Davis Municipal Code Related to Water Rates – Effective August 1, 2009

Adopted (Introduced 05/05/2009) by the following vote:

AYES: Heystek, Saylor, Souza, Asmundson

NOES: Greenwald

Commission Minutes:

1. City-UCD Student Liaison Commission Meeting of February 11, 2009
2. Planning Commission Meetings of July 9, 2008 and March 11, 2009
3. Social Services Commission Meetings of November 17, 2008, and February 23 and March 4, 2009

Informational

Recreation and Park Commission Minutes from the Meeting of March 19, 2009

Accepted minutes as informational, with exception of the following action item:

Approved Resolution No. 09-052 - Approving the Central Park Rotary Stage Reservation Policy

Residential Development Status Report

Make the following findings:

1. The tables provided in the report reasonably project anticipated development through 2013
2. The actual / anticipated residential development is in compliance with the growth cap and substantial compliance with the housing type targets, and that the projected development could reasonably meet the community's housing needs through 2013
3. The development applications submitted for the "yellow light" site of Wildhorse Horse Ranch shall continue to be processed

Direct staff to return in February – March 2010 with the next status report

Item tabled until June 2, 2010 Council Meeting

Yolo County Referral – Temporary Parking Lot and Construction Staging Area at 39660 W. Covell Boulevard for Construction of University Retirement Community (URC) Expansion

Approved the following recommendations to Yolo County for its consideration in reviewing the use permit:

1. Approve the comments on the subject project to Yolo County for consideration addressing the following: Encroachment Permit, Stormwater BMP's, Driveway & Site Restoration, Preconstruction Biological Survey, Construction Air Quality, and Exterior Lighting
2. Encourage Yolo County to consider granting the project request

City Manager Bill Emlen stated staff recommends adding conditions to the following Yolo County Referral (see #4 and #5 below) and applicant agreed to same, and read them into the record. City Attorney stated radiation standards are under the jurisdiction of the federal government.

Yolo County Referral – KMJE/KDVS Communications Facility at 28150 Mace Boulevard

Approved the following findings and comments below to Yolo County as conditions of approval for the subject use permit:

1. Find the project to provide community benefit; and
2. Find the project to not be growth inducing to the area around the project; and
3. Not object to the county's issuance of a building permit for the project subject to the following conditions:
  - a. The developer and County engage the community in the vicinity of the project to mitigate potential visual impacts of the project in the County's Conditional Use Permit process
  - b. The developer install additional landscape screening in the form of trees along the property's east property line adjacent to Mace Boulevard
  - c. The developer seeks alternative locations to eliminate potential bird strick risks associated with the site location adjacent to the South Fork Preserve and Yolo Basis Wildlife Area. If not feasible, the developer shall follow the recommendations of the City's Wildlife Resource Specialist.
  - d. The County shall keep the Community Development Director apprised of outreach meetings, changes to project description, and public hearing dates
  - e. Any substantive change to the project location, project description not consistent with these conditions shall be subject to a new County Referral prior to issuance of a conditional use permit
4. Developer will work with County to ensure the project will not result in interference of reception of Public Radio station or Public Television broadcasts that are currently received in South Davis or unincorporated areas south of I-80 as well as north of I-80
5. Developer will work with County to ensure that radiation from the project will not pose risks to human health or wildlife

Approved as amended

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

Resolution Authorizing Agreements Between the City of Davis, Davis

Item removed by S. Souza.

Kimble Sargent, Davis Community Network, encouraged Council to consider proposal to limit use of franchise fee funds to Davis Media Access (DMA).

Joint Unified School District and Davis Media Access for the Provision of Educational and Public Access Cable Services

Autumn Labbe-Renault, Director Davis Media Access, stated DMA is already utilizing alternate technology and evolving to meet community needs.

Pete Petersen, DMA Board of Directors, questioned restriction for cable funds, and suggested the issue should be reconciled to modify contract language if needed.

Zach O Donnell, Telecommunications Commission, explained there are conflicts of interest in the Commission making funding recommendations.

Nancy "Mountain Momma", KDRT, stated it is ironic that DMA funding will not be allowed to support KDRT.

L. Heystek moved, seconded by D. Saylor, to approve Resolution No. 09-053 - Authorizing the City Manager to Execute Agreements Between the City of Davis, Davis Joint Unified School District and Davis Media Access for the Provision of Educational and Public Access Cable Services, addressing the following contract items:

1. Allocation of the annual franchise fee revenues for one year
2. Allocation of monthly per-subscriber Public, Education, and Government Media (PEG) capital funding (pass-through) between the City, DMA, and DJUSD for one year
3. Requirements that the agreement with DMA and DJUSD be used strictly for operation of the cable channels and related media (bulletin boards systems, webcasting, etc.) and that reporting on use of the funds be done annually during the City's budgeting and end-of-year reporting process

S. Greenwald moved substitute motion to hold DMA funding steady from last year, use \$6,00 additional money to do a survey to determine what percentage of people view cable channels versus KDRT, and learn how shifting consumer patterns is done. No second.

Main motion passed unanimously, with direction to the City Attorney to review the contract language.

Appeal of March 19, 2009 Tree Commission Decision to Retain the Street Tree at 960 Zaragoza Street

City Arborist Rob Cain reported the tree on the west side of the property was approved for removal due to history of continued large limb failure. The tree in question was recommended for retention due to fair condition and still functions as a street tree.

Walt Tyler showed a table of evaluations by arborists and noted limb failure is common in Aristocrat Pear trees, and offered to plant two streets trees as replacement.

S. Souza moved, seconded by D. Saylor, to uphold the appeal of the March 19, 2009 Tree Commission decision to retain the street tree and allow Mr. Tyler to

remove the tree.

S. Greenwald moved substitute motion, seconded by L. Heystek, to uphold the Tree Commission decision and deny the applicant's appeal. Motion passed by the following vote:

AYES: Greenwald, Heystek, Asmundson

NOES: Saylor, Souza

Water / Wastewater Issues

City Manager Bill Emlen summarized the status of Davis-Woodland Water Supply Project (DWWSP) and the Davis Wastewater Treatment Plant alternatives/upgrades, and explained that Council has directed staff to reduce overall costs where possible.

Water Resources Master Plan

Public Works Director Bob Weir explained that City Council commissioned an independent review of major water resources initiatives. Dr. Schroeder and Dr. Tchobanoglous presented an analysis of the two projects and possible alternatives.

Elaine Roberts-Musser stated rate payers, particularly seniors, will not be able to afford both projects at once and supported slowing the process to allow for more investigation.

David Greenwald expressed concern regarding how City Council decides on utility rate increases and stated the public needs to be more engaged.

Doug Fetterly reported the water in West Davis was brown and grey recently, although the problem went away when city staff flushed the fire hydrants.

L. Heystek moved, seconded by S. Souza, to accept the Water Resources Master Plan. Motion passed unanimously.

S. Greenwald moved, second by L. Heystek, to direct the City Manager to request consultants to work with the city to formulate a charette process to oversee studies of wastewater alternatives. Motion passed by the following vote:

AYES: Greenwald, Heystek, Souza, Asmundson

NOES: Saylor

City Manager Bill Emlen stated staff would report back on June 2 or 9 with a scope of work.

City Council recessed at 9:59 p.m. and reconvened at 10:08 p.m.

Davis-Woodland Water Supply Project

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

1. Resolution No. 09-054 - Authorizing the City Manager to Execute Amendment 2 to the Davis-Woodland Water Supply Project (DWWSP) Cost Share

(DWWSP), CIP  
No. 8543

MOU Agreement, to contribute up to \$315,000 toward the next phase of work associated with continuing efforts to secure the area-of-origin water right permit for the application on file with the State Water Resources Control Board, and to position the project partners for future funding opportunities

2. Resolution No. 09-055 - to Formalize City of Davis Participation and Contribution to the Joint Scope of Work with the City of Woodland to Continue Work on the Davis-Woodland Water Supply Project
3. Resolution No. 09-056 - Authorizing the Mayor to Execute and Convey Letter of Concern Regarding SB 12 to Senator Simitian, regarding potential impacts on existing area-of-origin water right protections
4. Budget Adjustment #134 (\$37,000) – Allocating water fund reserves

S. Greenwald moved substitute motion, seconded by L. Heystek, to approve the above except \$185,000 for public outreach. Motion failed by the following vote:

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

L. Heystek proposed a friendly amendment to the main motion to direct staff to devise ways to minimize the cost of public outreach as appropriate and feasible. Accepted by mover and second. Main motion passed unanimously.

R. Asmundson moved, seconded by D. Saylor, to appoint a City Council subcommittee of Mayor Asmundson Mayor Pro Tem Saylor to work on this issue with the Woodland City Council Subcommittee. Motion passed by the following vote:

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

Resolution  
Authorizing  
Consultant  
Agreement with  
West Yost  
Associates for  
Wastewater  
Reclamation  
Alternative  
Analysis, CIP  
No. 8119

S. Greenwald moved, seconded by L. Heystek, to direct staff to send the project out for competitive bidding.

D. Saylor moved substitute motion, seconded by S. Souza, to approve Resolution No. 09-057 – Consultant Agreement with West Yost Associates for Wastewater Reclamation Alternative Analysis CIP No. 8199, authorizing a not-to-exceed \$487,404 sole source agreement for the following reasons:

1. Conaway Preservation Group (CPG) originally included the firm in initial discussions and the firm has continued to participate in meetings since summer of 2008
2. Reclamation feasibility schedule as set forth in the Amended Order with the State will not accommodate the weeks necessary to solicit proposals and proceed with a selection process
3. If a firm other than West Yost Associates was identified to provide the subject services, several weeks would be required for the newly selected firm to review the work developed to date, which again the schedule will not ac-

commodate.

Motion passed by the following vote:

AYES: Saylor, Souza, Asmundson

NOES: Greenwald, Heystek

Resolution Authorizing Amendment to Consultant Agreement with Somach, Simmons & Dunn for NPDES Permit Renewal

L. Heystek moved, seconded by D. Saylor, to approve Resolution No. 09-058 – Authorizing the City Manager to Execute Amendment No. 2 to Consultant Agreement with Somach Simmons and Dunn for NPDES Permit Renewal, , Program No. 7320, in a not-to-exceed \$132,850 agreement for special counsel services. Motion passed unanimously.

Resolution Authorizing Consultant Agreement with Environmental Science Associates (ESA) for CEQA Report for Tertiary and Re-Use for Water

S. Souza moved, seconded by D. Saylor, to approve Resolution No. 09-059 – Authorizing the City Manager to Execute Consultant Agreement with Environmental Science Associates (ESA) for California Environmental Quality Act (CEQA) Report for Tertiary and Re-Use for Water, CIP No. 8119, in a not-to-exceed \$425,003 agreement to provide equally weighted CEQA environmental documentation for tertiary wastewater treatment and wastewater reclamation alternatives on Conaway Ranch and other locations. Motion passed unanimously.

Continued Public Hearing

Mayor Asmundson opened and continued the public hearing until June 2, 2009 for the following: Proposed FY09/10 Fees and Charges for Provisions of City Services.

Consider Amendments to the Middle-Income Housing Requirement

Housing and Social Services Superintendent Danielle Foster summarized staff recommendation to reduce the middle-income housing requirement by 50% for developments with densities equal to or greater than 10 dwelling units per net acre that receive tentative map approval by June 30, 2011.

Mayor Asmundson opened the public hearing.

Mark Rutheiser requested Council suspend the middle income requirement indefinitely.

Bill Streng stated fees and carbon reduction requirements have increased, which restricts development options.

Greg Clumpner, Planning Commission, requested Council suspend the requirement indefinitely without limits.



Matt Williams requested Council allow the market to set housing prices, and opposed arbitrarily setting limits.

Don Fouts stated currently 39% of all homes currently on market are within middle income parameters, and questioned the need for the middle income requirement.

Mayor Asmundson closed the public hearing.

S. Greenwald moved, seconded by D. Saylor to eliminate the middle income limited appreciation requirement.

S. Souza moved substitute motion, seconded by D. Saylor, to suspend middle income requirements with no predetermined sunset date and to direct staff to come back within two years to evaluate potential re-instatement. Motion passed by the following vote:

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

Public Hearing:  
Community De-  
velopment Block  
Grant (CDBG)  
2009-2010 Fund-  
ing Amendments  
and 2008-2009  
Recommendations for CDBG  
American Recovery and Re-  
investment Act  
(ARRA) Stimulus Funds

S. Souza moved, seconded by R. Asmundson, to continue the meeting until midnight. Motion passed by the following vote:

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

Mayor Asmundson opened the public hearing, and hearing no comments, closed the public hearing.

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

1. Resolution No. 09-060 - Authorizing an Amendment to the Action Plan for the 2008-2009 CDBG Program Year in Order to Allocate \$216,403 in CDBG-R Stimulus Funds from the 2009 ARRA
2. Resolution No. 09-061 - Authorizing an Amendment to the Action Plan for the 2009-2010 CDBG Program Year
3. Budget Adjustment #133 (\$216,406) – Allocating grant funds

Motion passed by the following vote:

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

Removed from  
Consent Calendar:

Removed by D. Saylor.

Proposition 1B  
Projects Ap-

D. Saylor requested Council defer discussion of Budget Adjustment #127 (\$965,391) - Allocating Remainder of the Currently Available Prop 1B Funding to Street Maintenance for the Road Rehabilitation Contract(s), because the staff report is lacking information such as a detailed project description and estimate

proval; and  
Budget Adjust-  
ment #127  
(\$965,391) - Al-  
locating Re-  
mainder of the  
Currently Avail-  
able Prop 1B  
Funding to Street  
Maintenance for  
the Road Reha-  
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tract(s)

of costs. Council concurred. Public Works Director Bob Weir stated staff will return to Council with a report providing additional details as soon as possible, and explained staff may have to release plans and specifications for the project in the meantime so as not to jeopardize the funding source.

S. Souza moved, seconded by S. Greenwald, to approve inclusion of Asphalt Rubber Cape Seal to the road rehabilitation contracts as the proposed projects for the Proposition 1B plan. Motion passed by the following vote:

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

Brief Communi-  
cations

L. Heystek removed the following item from the Consent Calendar: City-UCD Student Liaison Commission Recommendation Regarding Community/General Use Facility Rental Policy. Item will be brought back for action at a future Council meeting, with staff clarification of legal ramifications. L. Heystek requested City Council agendaize the Facility Rental Policy before end of school year.

Paul Navazio stated there is an expectation that cities and counties will mount opposition to borrowing of funds by the state. Staff prepared a letter in opposition. Council concurred that the Mayor should sign the letter.

L. Heystek requested an Item Submitted by Councilmembers Heystek and Souza: Resolution Reaffirming Support of General Plan Concept Regarding Neighborhood Shopping Centers be agendaized for June. Council consensus to refer resolution to staff.

Adjournment

The meeting was adjourned at 12:13 a.m. in memory of Phyllis Hague.

Zoe S. Mirabile, CMC  
City Clerk

MINUTES OF THE DAVIS REDEVELOPMENT AGENCY BOARD  
Meeting of May 19, 2009

The Redevelopment Agency Board of the City of Davis met in regular session beginning at 6:30 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: Ruth Asmundson, Sue Greenwald, Lamar Heystek, Don Saylor, Stephen Souza

Board Members Present: None

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

Approval of Agenda L. Heystek moved, seconded by S. Souza, to approve the agenda. Motion passed unanimously.

Public Comments None

Consent Calendar Yolo County Referral – Temporary Parking Lot and Construction Staging Area at 39660 W. Covell Boulevard for Construction of URC Expansion  
Determined that the proposed project for a temporary parking lot and construction staging area is “urban development” under the pass-through agreement, but that the Redevelopment Agency does not object to its use

Yolo County Referral – KMJE/KDVS Communications Facility at 28150 Mace Boulevard  
Determined that the proposed project, constructing a 335 foot tall radio broadcasting tower on an existing property is “urban development” under the pass-through agreement, but that the Redevelopment Agency does not object to the use

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

Adjournment The meeting was adjourned at 12:13 a.m. in memory of Phyllis Hague.

Zoe S. Mirabile, CMC  
City Clerk