

MINUTES OF THE DAVIS CITY COUNCIL
Meeting of September 15, 2009

The City Council of the City of Davis met in regular session beginning at 6:00 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 Conference with Real Property Negotiators:

Property: Beoshanz Easement; APNs 037-010-23, 037-010-24

Negotiating Parties: Ed and Carol Beoshanz

Property: Koontz Easement; APN 041-100-23

Negotiating Parties: Wallis Koontz

Property: Kerr Easement; APN 041-100-24

Negotiating Parties: Lorraine Kerr Trust

Property: Staib 72 Easement; APN 040-200-15

Negotiating Parties: Georgette Staib 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

Property: Conaway Ranch

Negotiating Party: Conaway Preservation Group (CPG)

Agency Negotiator: Public Works Director Bob Weir; City Manager Bill Emlen; Property Management Coordinator Anne Brunette; City Attorney Harriet Steiner

City Council returned to open session at 6:30 p.m. and Mayor Asmundson announced there was no reportable action.

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

Ceremonial Presentation Mayor Asmundson presented Proclamation Declaring September 28, 2009 as Family Day – a Day to Eat Dinner with Your Children

Public Comments Mr. Oh, delegate from Sister City Sangeou, Korea, thanked the City of Davis for hospitality and friendship during his six month visit.

Francis Resta spoke regarding litter build-up along East Covell Boulevard from Pole Line Road to L Street along farmland fence and requested the city find a way to add maintenance of the area to city span of control.

David Jaffee spoke in opposition to the Wildhorse Ranch development proposal.

Daniel Boone, Oeste Manor Neighborhood Association, spoke in support of the Ordinance Reinstating the Collection of Business License Taxes for Certain Residential Units, on the consent calendar for this agenda.

Oliver Klausehauf stated the city should consider prohibiting the use of gas powered vehicles and equipment that contributes to pollution before restricting wood burning.

Rya Sententia also spoke in opposition to wood burning restrictions.

Jim Stevens stated city policy regarding wood burning should be based on science, not emotion.

S. Souza moved, seconded by D. Saylor, to reorder the agenda to discuss Wood Burning Restrictions and Continued Air Quality Data Monitoring before the Wildhorse Ranch Development Project. Motion passed by the following vote:

AYES: Saylor, Souza, Asmundson

NOES: Greenwald, Heystek

Consent Calendar Resolution No. 09-156 - Authorizing the City Manager to Execute Consultant Agreement with MatriScope Engineering Laboratories, Inc, for Material Testing and Special Inspection Services for East Area Tank, CIP No. 8172
Approved

Resolution No. 09-157 - Approving Sole Source Rehabilitation Work on Well #30 to Layne Christensen
Approved

Agreement with First Five Yolo to Administer Quality Enhancement Program to Provide Education Services to Child Care Providers for Fiscal Year 2009-2010

1. Approved Resolution No. 09-158 - Authorizing the City Manager to Enter into Agreement
2. Approved Budget Adjustment #10 (\$14,617) – Allocating increase in grant funds

Resolution No. 09-159 - Authorizing the City Manager to Enter into Agreement

with First Five Yolo to Administer the Comprehensive Approaches to Raising Educational Standards (CARES) Program and Submit All Reporting Requirements for Fiscal Year 2009-2010

Approved

Agreement with University of California, Davis to Provide Child Care Subsidies and other Child Care Support Services for Fiscal Year 2009-2010

1. Approved Resolution No. 09-160 - Authorizing the City Manager to Enter into Contract Amendment to Administer the UC Davis Child Care Subsidy Program and Provide Other Child Care Support Services and Submit all Reporting Requirements
2. Approved Budget Adjustment #9 (#12,855) – Allocating increase in grant funds

Second Reading: Ordinance No. 2344 - Reinstating the Collection of Business License Taxes for Certain Residential Units

Adopted (Introduced 09/08/09)

Second Reading: Ordinance No. 2345 - Modifying Article 18.06 of the Davis Municipal Code to Suspend the “Middle Income Housing” Requirement

Adopted (Introduced 09/08/09) by the following vote:

AYES: Greenwald, Saylor, Souza, Asmundson

NOES: Heystek

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

Continued Discussion Regarding Wood Burning Restrictions and Continued Air Quality Data Monitoring

City Manager Bill Emlen explained that two resolutions are being presented for Council consideration: one establishing a voluntary no burn program, and another directing staff to draft regulations for a mandatory program.

Assistant Public Works Director Sue Gedestad outlined staff recommendation to establish a voluntary no burn program and continue efforts to gather air quality data to define the neighborhood impacts of wood burning. She explained the voluntary program will result in an estimated average of 19 days of curtailment during the burn season.

Francis Resta stated there is not enough data to support wood burning restrictions.

George Cano urged the Council to wait for further data collection before making a final decision.

Mary Ann Lewis; Pam Nieberg; Alan Pryor, Yolo Clean Air; Carolyn Hinshaw; and Doug Fetterly spoke in support of a mandatory program. Comments included: concern over winter air quality in Davis, greatest threat from wood

burning is nearest neighbor impact, studies show that voluntary programs fail, and request Council consider mandatory program adopted by Sacramento Air Quality Management District (AQMD).

Mitch Heller and Jim Stevens spoke in opposition to a mandatory program. Comments included: request consideration for EPA certified appliances, prohibition is not economically feasible, and government should not intrude beyond what is reasonable.

John Scurve spoke in support of a voluntary program.

Barbara King spoke in support of restrictions on open hearth fireplaces.

D. Saylor moved, seconded by S. Souza, to approve Resolution No. 09-161 - Establishing "Voluntary No Burn" Days for the Curtailment of All Wood Burning Devices to Protect Public Health from Wood Burning Smoke Emissions, based on recommendations from the July 21, 2009 meeting. Elements in the Resolution are as follows:

- Establish voluntary no burn days, based on a forecasted average of particulate matter (PM) 2.5 concentration of 25 ug/m³ or higher
- Work with Dr. Cahill to continue the data collection and analysis during the next burn season
- In conjunction with YSAQMD, log resident complaints
- Evaluate program after one year

L. Heystek moved substitute motion, seconded by S. Greenwald, to adopt a mandatory program based on Sacramento AQMD mode, based on Yolo Solano AQMD data, at current thresholds of 35 ug/m³ or higher.

S. Greenwald proposed a friendly amendment to exempt EPA approved wood burning stoves. Accepted by mover.

R. Asmundson moved substitute, substitute motion, seconded by S. Souza, establishing voluntary restrictions for one year and directing staff to look at methods to implement a mandatory program in one year's time. Motion failed by the following vote:

AYES: Souza, Asmundson

NOES: Greenwald, Heystek, Saylor

Substitute motion failed by the following vote:

AYES: Greenwald, Heystek

NOES: Saylor, Souza, Asmundson

Main motion passed by the following vote:

AYES: Saylor, Souza, Asmundson

NOES: Greenwald, Heystek

City Council recessed at 8:15 p.m. and reconvened at 8:27 p.m.

Wildhorse Ranch Development Project / 3003-3075 East Covell Boulevard, Generally North of the Intersection of East Covell Blvd. and Monarch Lane – Rezoning and Preliminary Planned Development, Affordable Housing Plan and Development Agreement

City Manager Bill Emlen provided a status update on the project, and explained that the Environmental Impact Report (EIR) was already certified and an election has been called on November 3, 2009 for voter consideration of the proposal. The remaining project applications are Rezoning and Preliminary Planned Development, Affordable Housing Plan, and Development Agreement.

Assistant City Manager Paul Navazio summarized the updated fiscal analysis which includes a \$300 per unit Community Facilities District (CFD) annual assessment and a \$1,500 per unit general fund mitigation fee proposed in the Developer Agreement. Navazio also explained the Finance and Budget Commission recommendation is to defer a decision on the project in order to allow the Commission to review the fiscal impacts.

S. Greenwald moved to postpone the Wildhorse Ranch Development Project discussion for two weeks in accordance with the Finance and Budget Commission recommendation. No second.

Greg Sokolov, Finance and Budget Commission, questioned the rushed timeline and stated there is discrepancy regarding the fiscal impact of the project.

Elaine Roberts-Musser requested Council provide enough time for full analysis of development project by commissions.

David McLoughlin stated the project site should be maintained as agricultural.

Phil Whyles, Wildhorse East Neighborhood Association, spoke in opposition to the project and outlined a neighborhood proposal for modifications to the project including: reduction of construction hours, open space to remain as such permanently, play structure and meeting area in east/west greenbelt, reconfigure entry street east, increase distance between existing homes and 3-story town home, and ensure commitment to transfer 20' of land to immediately adjacent neighbors.

Brian Krall and Jason Holmquist spoke in support of the Wildhorse East Neighborhood Association proposal.

John Tallman, Parlin Development, explained the fiscal impact indicated the fiscal benefit includes in-kind or donations.

Tim Youmans, Economic Planning Systems, helped analyze the city's fiscal impact analysis and develop mitigation measures; stated the methodology is comprehensive and conservative, with fiscal deficits caused by provisions of affordable housing.

Eileen Samitz, Nina Gatewood and Jack Chapman spoke in opposition to the project. Reasons included: density; agricultural zoning of the site; lack of affordability, green aspects and citizen review; fiscal impact; and visual characteristics not consistent with the neighborhood.

Nora Oldwin spoke in support of the Finance and Budget Commission's request for time to review the project.

Bill Ritter, Wildhorse Ranch Measure P Campaign Manager, noted that Councilmembers are liaisons to commissions and not sitting members; stated he believes Councilmember Greenwald acted inappropriately at the Finance and Budget Commission meeting wherein she berated the Commission Chair and directed the discussion, advocating against the project, in violation of the Council's own procedures.

Shaheem Manfred, Outreach Coordinator Yes on P Campaign, explained 21 neighborhood meetings were held since 2004, addressing neighborhood concerns.

Michelle Rasmussen stated Council should hold the developer accountable, especially considering lack of commission review.

Tansey Thomas stated this is a cutting edge project and could be a model for future developments.

L. Heystek moved, seconded by D. Saylor to approve the following amendments to the Development Agreement:

- Reduce allowable hours of construction to be consistent with the Chiles Ranch project recently approved by the city: Monday-Friday, 7a-5p, Sat 8a-3p, no construction activities allowed on Sundays, federal holidays, or after noon on December 24
- Retain language on orchard construction timing, with provision that the latest that the orchard can commence is within 1 year of first building permit issuance
- Private open space areas shall be protected by deed restrictions with development rights held by the City
- Development Agreement and other necessary documents shall memorialize commitment to transfer 20' of land to the immediately adjacent neighbors, with language as follows:
 - 20' Land Transfer. Applicant/developer has committed to transfer approximately twenty feet of land on the west and north sides of the project, subject to the approval of the City, to each of the abutting properties who elects to receive the additional land, including payment of mapping and surveying costs, grading of the transferred property, and replacement of the fences, subject only to the corresponding property

owner's timely acceptance of the transfer and agreement to pay one-time transaction costs related to the transfer and annual property taxes and assessment. The Applicant/developer shall submit Lot Line Adjust (LLA) application(s) for each such transfers, concurrently with the submittal of a Tentative Map for the project. The Tentative Map application will be deemed incomplete if the LLA application(s) are not submitted concurrently.

D. Saylor proposed a friendly amendment as follows: No land dedication for affordable housing. Accepted by mover.

S. Souza proposed a friendly amendment as follows: section 202, item B-development timing pg 76- Phasing plan shall be consistent with the 1% annual growth cap resolution or any future resolution regarding growth rate of the city. Accepted by mover and second.

By consensus, Council decided to separate questions and vote individually on any more proposed amendments to Development Agreement.

Motion passed unanimously.

S. Greenwald moved, seconded by S. Souza to amend the Development Agreement as follows: developer to provide \$6,000 per unit fee for a dedicated fund for a sustained revenue flow. Motion failed by the following vote:

AYES: Greenwald,

NOES: Heystek, Saylor, Souza, Asmundson

S. Greenwald moved, seconded by S. Souza, to amend the Development Agreement as follows: reconfigure project to remove four houses from the west side where buffer is narrowest and increase buffer to a minimum of 35 feet from all of the existing neighbors' backyards. Motion failed by the following vote:

AYES: Greenwald, Souza

NOES: Heystek, Saylor, Asmundson

S. Greenwald moved, seconded by S. Souza, to amend the Development Agreement as follows: remove 3rd story from unit that is closest to existing neighbor's houses where buffer is narrowest.

L. Heystek proposed a friendly amendment as follows: townhomes in south west corner of project to provide a transition, with two 2-story units followed by 3-story units. Accepted by mover and second. Motion passed by the following vote:

AYES: Heystek, Greenwald, Saylor, Souza

NOES: Asmundson

D. Saylor moved, seconded by S. Greenwald, to amend the Development Agreement as follows: a community gathering place or places for children and adults shall be included within the private open space area to be constructed at developer's expense and maintained by homeowner's association. Motion passed by the following vote:

AYES: Greenwald, Heystek, Saylor, Souza, Asmundson

NOES: None

S. Greenwald moved, seconded by L. Heystek, to amend the Development Agreement as follows: if possible, during the Planning Commission review of design, consider re-allocating parking spaces for affordable housing units to Covell Blvd in order to accommodate a children's play area/open space area. Motion passed by the following vote:

AYES: Greenwald, Heystek, Saylor, Souza, Asmundson

NOES: None

Community Development Director Katherine Hess clarified that upon design review of affordable housing component, Planning Commission shall evaluate the adequacy of children's play areas.

D. Saylor moved, seconded by S. Souza, as follows:

1. Introduce Ordinance No. 2346 - Amending Section 40.01.090 of Chapter 40 of the Davis Municipal Code to Rezone Approximately 25.8 Gross Acres of the Parcel Located at 3003, 3027, and 3075 East Covell Boulevard, at the Intersection of East Covell Boulevard and Monarch Lane from Planned Development (P-D) #3-89 (Horse Ranch) to Planned Development #4-05 (Residential And Open Space Uses)
2. Approve Affordable Housing Plan #2-05, which establishes the conceptual affordable housing plan for the project attached to this report
3. Introduce Ordinance No. 2347 - Approving a Development Agreement with Parlin Wildhorse Ranch, LLC Regarding the Project Commonly Known as Wildhorse Ranch

Motion passed by the following vote:

AYES: Heystek, Saylor, Souza, Asmundson

NOES: Greenwald

City Council recessed discussion on this item at 11:58 p.m.

Davis-Woodland
Water Authority
Joint Powers Au-
thority Agree-
ment (DWWA),
CIP 8543

D. Saylor moved, seconded by S. Souza to continue the meeting to discuss the last regular item. Motion passed by the following vote:

AYES: Saylor, Souza, Asmundson

NOES: Heystek

ABSENT: Greenwald

R. Asmundson moved, seconded by S. Souza, as follows:

1. Approve Resolution No. 09-162 - Authorizing the Mayor to Execute the

Joint Powers Authority (JPA) Agreement Establishing the Davis-Woodland Water Authority

2. Appointment of D. Saylor and S. Souza to serve as regular members and L. Heystek to serve as an alternate member on the DWWA Governing Board
3. Approve the City's FY2009-10 JPA budget contribution of \$958,000

Motion passed by the following vote:

AYES: Saylor, Souza, Asmundson

NOES: Greenwald

ABSTAIN: Heystek

Elaine Roberts-Musser stated the community needs concise language regarding possible rate increases and requested the JPA to issue clear factual statements to put public on notice of what to expect.

Doug Fetterly spoke regarding the lack of fluoride in Davis water and questioned if the JPA agreement requires fluoride.

Long Range Calendar

L. Heystek relayed request from the Open Space and Habitat Commission to postpone Council discussion on the Willowbank Park item from September 29 to October 13 in order for the Commission to have an opportunity to discuss habitat on the project, specifically regarding riparian habitat impact.

L. Heystek moved, seconded by S. Souza, to remove the Willowbank Park discussion from the September 29 agenda.

S. Greenwald moved substitute motion for Council to discuss the Willowbank Park item as scheduled on September 29, with the understanding that there will not be final action by Council. No second.

Main motion passed by the following vote:

AYES: Heystek, Saylor, Souza, Asmundson

NOES: Greenwald

City Council recessed at 12:32 and reconvened at 12:39

Wildhorse Ranch Development Project Continued

Community Development Director Katherine Hess provided clarified language to Council amendments regarding affordable housing from earlier discussion: Applicant shall submit design review and final Planned Development applications for affordable housing site concurrent with tentative map submittal. Property owners shall start construction of affordable housing by issuance of 75th building permit, certificate of occupancy for affordable housing shall be issued by 100th building permit. There will be no request for City subsidy for affordable housing and Parlin may work with a non-profit developer, but will not be released from liability for construction of the project.

D. Saylor moved, seconded by S. Souza, to approve staff clarifications as stated above regarding Development Agreement amendments related to affordable

housing. Motion passed by the following vote:
AYES: Heystek, Saylor, Souza, Asmundson
NOES: Greenwald

Brief Communi- D. Saylor stated the Commission Subcommittee will review S. Greenwald's
cations actions from the September 14 Finance and Budget Committee meeting and
consider recommendations regarding City Council Liaison activities.

R. Asmundson and S. Souza reported that the Commission Subcommittee has
already initiated the investigation, and will also review guidelines proposed by
staff regarding development applications.

Adjournment The meeting was adjourned at 12:43 a.m.

Zoe S. Mirabile, CMC
City Clerk