The City Council 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 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

Approval of Agenda

L. Heystek moved, seconded by S. Souza, to approve the agenda. Motion passed by the following vote:
AYES: Heystek, Saylor, Souza, Asmundson
NOES: None
ABSENT: Greenwald

Public Comments

Mark Braly, Valley Climate Action Center, announced a community workshop will be held on January 28 regarding alternative vehicles.

Emily Henderson, Elizabeth Andrea and Nate Strickland thanked the City Council for agreeing to reconsider the Memorandum of Understanding (MOU) with Davis Community Church (DCC) and rescinding limitations on shelter occupancy, and requested the D Street Council Subcommittee to include more participation from the community in their efforts related to homeless services.

John Munn spoke in favor of district elections. Reasons included: reduces cost of running for Council, partisanship problems can be resolved, promotes interaction with individual voters. Further, stated he is willing to draft a petition to place an initiative on the ballot in November, but wanted to give Council the opportunity to place the issue before voters. If Council chooses to pursue, requested a decision within the next month or so.

Casey Wallace and Natalia Depsossa, Davis Advocates of Sheltered Animals (DASA), Lori Guiven and Evelyn Dale spoke regarding the provision of animal services by Yolo County. Comments included: animal shelter should be kept clean and sanitary, concern over homeless animals in Davis and Yolo County, animal shelter lacks basic amenities, and request animal shelter be agendized for Council consideration.

Consent Calendar

Resolution No. 10-009 - Authorizing the City Manager to Execute on Behalf of the City of Davis All Documents Related to the Submission of an Application to the California Infrastructure and Economic Development Bank for Financing the East Area Tank (CIP 8172) and Other Components of the Davis Well Ca-
capacity Replacement EIR, the Declaration of Official Intent to Reimburse Certain Expenditures from Proceeds of Obligation, and Approving All Other Matters Necessary to Comply with the Requirements of the Loan Application

Approved resolution, which authorizes the re-allocation of the I-Bank loan proceeds for projects contained in the Well Replacement Capacity EIR including the east Davis water storage tank, Well 32 wellhead treatment and Well 34 production well development costs

Ordinance Amending Section 22.04.010 of the Davis Municipal Code Relating to the Decrease of Prima Facie Speed Limit – Proposed Change in Speed Survey Boundary and Speed Limit Reduction:
1. Decrease speed limit on Second Street from a point 2,500 feet west of Mace Boulevard to Mace Boulevard, from 45 mph to 35 mph
2. Change the speed limit segment boundaries on Second Street between the Pole Line Road overcrossing and Mace Boulevard

Introduced

Commission Minutes:
1. City / UCD Student Liaison Commission Meeting of December 9, 2009
2. Finance and Budget Commission Meetings of November 9 and December 14, 2009
3. Planning Commission Meeting of August 26, 2009

Informational

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

Removed from Consent Calendar:

Ordinance Amending Section 22.04.010 of the Davis Municipal Code Relating to the Decrease of Prima Facie Speed Limit

Item removed by S. Souza.

S. Greenwald moved, seconded by L. Heystek, to introduce Ordinance Amending Section 22.04.010 of the Davis Municipal Code Relating to the Decrease of Prima Facie Speed Limit – Proposed Speed Limit Increase One-Year Pilot Program: Increase Speed Limits from 25 mph to 30 mph for the following:
1. J Street between E. Eighth Street and Covell Boulevard
2. Anderson Road between Covell Boulevard and Corona Drive
3. Sycamore Lane between Antelope Avenue and north City Limit;

and direct staff to return to Council with report on statistical data relaying effectiveness of pilot program.

L. Heystek proposed a friendly amendment for a six-month pilot program, based on the school year. Accepted by mover.

Interim Public Works Director Bob Clarke clarified motion as follows: Council will authorize a one-year pilot project, and direct staff to return to Council in six months with a status update.

D. Saylor proposed a friendly amendment to extend the segment on Anderson Road to Oriole Avenue. Accepted by mover and second.
B. Clarke further clarified: the deadlines will begin upon implementation of the pilot in March.

Motion passed unanimously.

Item removed by L. Heystek.

R. Asmundson moved, seconded by S. Souza, to approve the Proposed Job Specification – Waste Water Treatment Plan Superintendent. Motion passed by the following vote:

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

City Council recessed at 7:15 p.m. and reconvened at 7:20 p.m.

Deputy City Attorney Kimberly Hood explained on December 5, 2009, the City Manager rescinded 37 permits issued to NewPath Network on the grounds that (1) NewPath did not comply with the City's Wireless Ordinance; (2) the permits for ground-based fiber and conduit relied on the location of wireless facilities that had not been approved and may not have met location requirements for wireless facilities in the City's ordinances; (3) other permits relied on access to public property that is not within public rights of way with permitted access; and (4) certain of the proposed poles and other above-ground facilities are proposed for locations that do not permit above ground facilities.

Jamie Hall, Channel Law Group, LLP, outside counsel for NewPath, stated NewPath contends they are not subject to the wireless ordinance; however, they are willing to work with the city to modify permits issued. Steven Garcia, Principal Land Use Planner for NewPath, presented alternative designs and locations including slimline pole designs, and replacement streetlight poles and traffic signals.

Michelle Swanson; Samantha McCarthy; Alan Hastings; Elaine Fingerette; Al Colembano, Village Homes Board; Liz Mary; Sam Hoven; Christy Skibbins; David and Jim Watson; Jennifer Douglas; Lucy and Vince Asai; Don Moony; Eileen Samitz; Rebecca Moon; David Greenwald; and Richard Hastings spoke in support of the rescission of the encroachment and building permits. Comments included: NewPath should abide by city regulations and reapply for permits based on provisions in wireless ordinance; lack of public notice; concern over safety and aesthetics; and request Council address telecommunication facilities already constructed on private property.

City Council recessed at 8:52 p.m. and reconvened at 8:57 p.m.

S. Souza moved, seconded by S. Greenwald, to Approve Resolution No. 10-010 - Adopting Findings and Determinations Re: NewPath Networks, LLC’s Appeal of Permit Rescission, affirming that the City Manager did not err in re-
S. Souza moved, seconded by R. Asmundson, to determine that rescission of the permits does not preclude NewPath from submitting an application for its DAS project pursuant to the City's Wireless Ordinance; nor does it require NewPath to remove any of the facilities installed thus far while that application process is completed, provided that the application is submitted within 120 days of adoption of the attached resolution and findings (or such other period as the City Council may determine).

S. Greenwald moved substitute motion that City Council does not take any action on the determination in the previous motion. No second.

S. Souza amended main motion as follows: determine that rescission of the permits does not preclude NewPath from submitting an application for its DAS project pursuant to the City's Wireless Ordinance. Accepted by second.

L. Heystek moved substitute motion to direct staff to inquire as to feasibility of directing NewPath to remove facilities that have already been installed. D. Saylor requested this be a separate motion. L. Heystek withdrew amendment.

Main motion passed by the following vote:
AYES: Greenwald, Saylor, Souza, Asmundson
NOES: None
ABSTAIN: Heystek

L. Heystek moved, seconded by S. Souza, to direct staff to inquire as to the feasibility of directing NewPath to remove existing equipment that has already been installed. Motion passed unanimously.

L. Heystek moved, seconded by S. Greenwald, to direct staff to analyze applicability as to the California Environmental Quality Act (CEQA) in this process. Motion passed unanimously.

City Council recessed at 9:46 p.m. and reconvene at 9:54 p.m.

Aesthetic Considerations for East Area Tank, CIP No. 8172

Senior Civil Engineer Michael Mitchell explained construction of the East Area Tank is slated for completion in November 2010, and staff is seeking input on color schemes and other aesthetic considerations such as landscaping, signage, and art. He presented sample renderings prepared by the project architect.

D. Saylor moved, seconded by L. Heystek, to direct staff to consult with the Civic Arts Commission on the question of underlying tints for the colored concrete that allows for the most artistic flexibility and to establish a process to use that commission to determine an appropriate artistic display on the tank. Motion passed unanimously.
Ordinance Amending Article 15.19 of Chapter 15 of the Davis Municipal Code Relating to Re-Authorizing and Extending the One-Half Cent Transactions and Use Tax for General Purposes Through and Including December 31, 2016 Subject to the Approval of the Voters

Budget Manager Kelly Fletcher explained on December 8, 2009, City Council directed staff to pursue a continuation of the current one-half cent General Purpose Transaction and Use (Sales) Tax to be placed on the June 2, 2010 ballot. She summarized the proposed ordinance to extend the tax until December 31, 2016.

S. Souza moved, seconded by R. Asmundson, to introduce Ordinance Amending Article 15.19 of Chapter 15 of the Davis Municipal Code Relating to Re-Authorizing and Extending the One-Half Cent Transactions and Use Tax for General Purposes Through and Including December 31, 2016 Subject to the Approval of the Voters to Continue to be Administered by the State Board of Equalization. Motion passed by the following vote:
AYES: Greenwald, Saylor, Souza, Asmundson
NOES: Heystek

S. Souza moved, seconded by D. Saylor, to use the ballot language as submitted by staff: “Shall Ordinance No. ___, which would authorize the City of Davis to continue to collect a one-half cent sales and use tax for general government purposes through December 31, 2016, be adopted?” Motion passed by the following vote:
AYES: Greenwald, Saylor, Souza, Asmundson
NOES: Heystek

Long Range Calendar

D. Saylor requested Council agendize a Proclamation recognizing local filmmakers Robert Machoian and Rodrigo Ojeda-Beck for Their Sundance Film Festival featured short film “Charlie And The Rabbit.” Council concurred.

S. Greenwald requested Council agendize discussion of potentially waiving building permit fees for accessibility-related retrofits for seniors. L. Heystek requested staff analysis. City Manager Bill Emlen stated staff will conduct a baseline level of analysis and return to Council within reasonable timeframe. He explained there are legal issues with the waiving of permit fees. Council concurred.


Adjournment

The meeting was adjourned at 10:54 p.m. in memory of Mabel Dean and with best wishes for good health and quick recovery to Hamza El-Nakhal.

Zoe S. Mirabile, CMC
City Clerk