

MINUTES OF THE DAVIS CITY COUNCIL  
Meeting of December 7, 2010

The City Council of the City of Davis met in regular session beginning at 5:00 p.m. in the Community Chambers, 23 Russell Boulevard, Davis, California. The meeting was called to order by Mayor Saylor.

Roll Call: Councilmembers Present: Sue Greenwald, Joe Krovoza, Don Saylor, Stephen Souza, Rochelle Swanson

Councilmembers Absent: None

Other Officers Present: Interim City Manager Paul Navazio, City Attorney Harriet Steiner

Staff Present: Planning Technician Lynanne Mehlhaff

Closed Session City Council convened a closed session to discuss the following:

A. Pursuant to Government Code §54954.5:

1. Conference with Legal Counsel – Existing Litigation. Twin Pines Cooperative Foundation v. Davis Area Cooperative Housing Association, Yolo County Superior Court Case No. CV PO 08-3424

2. Conference with Real Property Negotiators.

Property: Sacramento River Water Transfer/Purchase Agreement for water to be delivered to proposed new Sacramento River intake facility

Negotiating Parties: Conaway Preservation Group

Agency Negotiators: Harriet Steiner; Alan Lilly; Richard Shanahan; Eric Mische

Under Negotiation: Price and terms of payment

B. Pursuant to Government Code §54956.96: Woodland-Davis Clean Water Agency; confidential information; real property acquisition

City Council returned to open session at 5:35 p.m.

Approval of Agenda Called to order by Mayor Don Saylor and Planning Commission Vice-Chairperson Lucas Frerichs.

Approval of Joint City Council and Planning Commission agenda: Council Member Swanson moved approval of the Agenda; seconded by Council Member Souza. Planning Commissioner Hanson moved approval of the Agenda and seconded by Planning Commissioner Choudhuri.

The motions passed unanimously.

Joint Discussion with Planning Commission City Council / Planning Commission Joint Discussion – City Council Goals, General Plan Update, Development Review and 2011 Commission Workplan  
Introductions of all members of the Planning Commission present: Rob Hofmann, Terry Whittier, Justin Kudo, Marilee Hanson, Ananya Choudhuri, Paul Philley,

Lucas Frerichs, Mark Braly(6:03 pm) and City Council members: Joe Krovoza, Sue Greenwald, Rochelle Swanson, Stephen Souza.

Mayor Saylor asked for public comment and there were no public comments.

Ken Hiatt, Community Development & Sustainability Director, highlighted the main priority goals of the Council and stated he would like to do more of a preapplication phase on larger projects, have policy discussions with various Commissions and then take advisory comments back to the Council first before an applicant submits a formal application.

Commissioners stated two primary areas of interest: proactive planning in order to review projects earlier on in the process instead of seeing it after it is all planned out and updating the General Plan. Other areas of interest were Sustainability and wellness plan elements in the General Plan; more study sessions and workshops; and do an update to the General Plan in the most efficient and effective way.

Council Members suggested the following: that the Planning Commission call special meetings to meet and review one agenda item at a time if necessary in an open and transparent process; the main elements needed to update the General Plan are the Sustainability Element, the Land Use element, Transportation and Economic Development; a whole-scale re-write of the General Plan was not necessary now. Planning Commissioners should share ideas or issues of projects with other Commissions; should work with staff on a Work Plan for the year; and work on long range planning and visions for the community needs in the future.

*Closing comments:* Mayor Saylor said Council consensus tonight appreciated the interest on early formative discussions both on projects submitted and general planning issues identified. Also, strong consensus from Council to look into issues on sustainability, economic development, mobility/circulation and also look into the issues identified on wellness. Planning Commission should put together a workplan with staff and bring back to Council for consideration and approval.

Public Comment: There were no public comments.

The Joint Planning Commission and City Council meeting was adjourned.

City Council recessed at 6:24 p.m. and reconvened at 6:35 p.m.

Approve CC  
Agenda

Mayor Saylor announced in regards to closed session item Twin Pines Cooperative Foundation and the Davis Area Cooperative Housing Association, it was deferred and there was no discussion. There was nothing to report from closed session discussions on the Sacramento River Water Transfer/Purchase Agreement for water to be delivered to proposed new Sacramento River intake facility with the Woodland-Davis Clean Water Agency representatives.

S. Greenwald moved, seconded by R. Swanson to approve the City Council and Redevelopment Agency Board agendas. Motion passed 4-0-1. (J. Krovoza was away from the dais).

J. Krovoza arrived to the meeting at 6:36 p.m.

Public Com-  
ments

Alan Pryor of Yolo Clean Air said due to smoke in the air from a fireplace, a citizen called the Fire Department and it was only a false alarm. This incident cost the City and taxpayers thousands of dollars. He said the lack of proper wood burning controls in Davis such as a wood-burning ordinance cost the City of Davis more by dispatching the Fire Dept. for wood burning issues than if the Police Dept. could follow-up on wood burning complaints.

Randi MacNear, Davis Farmers Market, said Davis Farmers Market was a recipient of an award and will open a small market at Sutter Davis Hospital to help bring in food to the gift shop and the cafeteria. They also are helping out West Sacramento to open a Farmers Market.

Howard Zochlinski said the City was trying to evict him right before Christmas. He said his landlady refused to evict him but now all the fines from the City have been put on his landlady's tax bill and she is going to evict him. He was asking for justice and asked people to get in touch with him if they could help him.

David Thompson, President of the Twin Pines Cooperative Foundation, said DACHA is now going to dissolve. He said the involuntary bankruptcy would have saved DACHA and helped solve the problem but the City went ahead and foreclosed. He said the City was bungling the funds by not doing its' due diligence. He has asked the City to help him work on Rancho Yolo and he has not heard a reply. He requested that the Council do an independent investigation on what happened with DACHA.

Lucas Frerichs pointed out a public safety issue of street lights not on at some major intersections in town; the intersection of First and E Streets and A Street and Russell Boulevard. He suggested that if a city worker is working an evening shift maybe they could note all the lights that are out and rectify the problem.

Jarod Downing congratulated the city on the land grant for the CHA Housing Cooperative.

Mayor Saylor asked Paul Navazio and Bob Clarke to look at how to handle the after work hour issues of the street lights.

Consent Calen-  
dar

A. Resolution to Amend the City of Davis Buyer/Tenant Selection Guidelines and Adopt a Procedure for Income Qualifying Households That Include Adult Dependents for Rental and Ownership Affordable Housing Units (*Community Services Director Elvia Garcia-Ayala/Housing Program Coordinator Tom Callinan*)

Recommendation: Approve

B. Resolution Assigning Davis' Interests in Water-Right Application 30358A to Woodland-Davis Clean Water Agency (*Interim Public Works Director Robert Clarke/Utilities Manager Jacques DeBra*)

Recommendation: Approve

C. Voluntary Commercial Organics Collection Pilot Program (*Assistant Public Works Director Sue Gedestad/Senior Utility Resource Specialist Richard Tsai*)  
Approved - Support the development and implementation of a pilot program to collect commercially generated organics

D. City of Davis 2x2 Committee Minutes:

1. City of Davis / Chamber of Commerce 2x2 Committee Meetings of May 20 and July 15, 2010
2. City of Davis / County of Yolo 2x2 Committee Meeting of May 18, 2010
3. City of Davis / Davis Joint Unified School District 2x2 Committee Meeting of April 22, 2010

Informational

S. Greenwald moved approval of Consent items #C and #D, as listed above; R. Swanson seconded the motion and it passed 5-0.

Removed from  
Consent:

Items #A and #B removed by S. Greenwald and R. Swanson.

R. Swanson asked that item #A, Resolution to Amend the City of Davis Buyer/Tenant Selection Guidelines and adopt a procedure, be pulled and brought back in January to receive additional information. S. Greenwald requested that the item be put on the regular calendar at that time.

Consent Item #B, Resolution Assigning Davis' Interests in Water-Right Application 30358A to Woodland-Davis Clean Water Agency, was discussed and voted on later in the meeting as follows:

**(9:35 pm) Consent Item #4B – Interim Public Works Director Bob Clarke explained the reason for the Resolution of transferring the Water-Right application to the Woodland-Davis Clean Water Agency due to the January 18, 2011 water-right hearing before the State Water Resources Control Board.**

**S. Greenwald moved approval and R. Swanson seconded the motion. The motion passed 5 to 0.**

Public Hearing:  
CDBG HOME  
Program Year  
2011-2012 Critical Needs List  
and RFP

Public Hearing: Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Program Year 2011-2012 Critical Needs List and Request for Proposals (RFP) (*Community Services Director Elvia Garcia-Ayala/Administrative Analyst Patrick Conway*)

Recommendation: Approve Resolution Approving the Critical Needs List and Directing Staff to Issue RFP

Patrick Conway, Administrative Analyst, presented the staff report.

Mayor Saylor opened and closed the public hearing, receiving no comments.

S. Souza moved approval of the resolution approving the Critical Needs List and direct staff to issue the RFP. R. Swanson seconded the motion the motion passed 5 to 0.

Public Hearing:  
FY2011-2012  
Davis Business  
Improvement  
District (BID)  
Annual Assess-  
ment Process,  
2010 Core Area  
BID Report and  
Proposed DDBA  
FY2011-2012  
Budget

Public Hearing: FY2011-2012 Davis Business Improvement District (BID) Annual Assessment Process, 2010 Core Area BID Report and Proposed DDBA FY2011-2012 Budget (*Economic Development Coordinator Sarah Worley/Economic Development Specialist Xzandrea Fowler*)

Recommendation:

1. Consider any written or verbal protests on the intention to levy an annual assessment for the activities specified pursuant to the Parking and Business Improvement Area Law of 1989
2. Accept the 2010 Core Area BID (Business Improvement District) Report and DDBA FY 2011-2012 Summary Budget as amended, by incorporation at the conclusion of the public hearing
3. Approve Confirming Resolution Approving the 2010 Core Area BID Report as Amended and Levying an Annual Assessment Known as the Business Improvement District Annual Assessment Fee for the Core Area Benefit Zone and Periphery Core Benefit Zone Pursuant to the Parking and Business Improvement Area Law of 1989 for the Davis Business Improvement District for Fiscal Year 2011-2012
4. Approve Resolution Authorizing City Manager to Execute an Amendment to the Davis Business Improvement District Administration Agreement Core Area and Periphery Benefit Zones

Xzandrea Fowler, Economic Development Specialist, presented the staff report.

Executive Director Joy Cohan and Co-President Michael Bisch of the DDBA, highlighted the DDBA's year and thanked the City Council for their collaboration.

Mayor Saylor opened and closed the public hearing, receiving no other comments.

S. Greenwald moved approval and S. Souza seconded the motion. The motion passed 5 to 0.

Public Hearing:  
Willowbank Unit  
10 Subdivision –  
Planning Appli-  
cation #68-09 &  
Development  
Agreement  
Amendment

Public Hearing: Willowbank Unit 10 Subdivision – Planning Application #68-09 & Development Agreement (DA) Amendment #9-09, Resulting in Modifications of Relevant Conditions of Approval of Affordable Housing Plan, Tentative Map, and Final Planned Development (*Community Development & Sustainability Director Ken Hiatt/Principal Planner Michael Webb/Planner & Historical Resources Manager Ike Njoku*)

Recommendation:

1. Determine that proposed project is not subject to further environmental review pursuant to Section 15162 of CEQA given that Negative Declaration #10-92 prepared and adopted for the original subdivision adequately addressed all environmental impacts and no new changes, information, or impacts have been identified that would warrant additional environmental review; and

2. Introduce Ordinance Approving First Amendment (#9-09) to the Willowbank Unit #10 Development Agreement (DA), Property Consisting of Approximately 7.15 Acres Located on the North Side of Montgomery Avenue, East of Rosario Street, West of Mace Boulevard, and South of Putah Creek, that modifies certain terms and conditions of the DA including:
  - A. Assignment and Assumption of all rights and obligations of Willowbank Unit #10 subdivision Development Agreement to Warmington Residential California
  - B. Modifications to the relevant conditions of approval of Willowbank Unit #10 subdivision relative to Affordable Housing Plan, Tentative Map, Final Planned Development, and Design Review to reflect the changes to the DA
  - C. Requested increase to the floor area ratio of six lots, and the elimination of the additional 500 square feet of lot coverage allowed on seven lots
  - D. Addition of performance standard to the seven lots restricted to one-story in height

City Council recessed at 7:16 p.m. and reconvened at 7:21 p.m.

Principal Planner Mike Webb and Planner Ike Njoku presented the staff report.

Mayor Saylor opened the public hearing.

Lincoln Leaman, representative of the developer, answered questions: 1) kilowatts on the PV and the pre-plumb on all houses and people can put in when they buy, can up it to 4.9 if they wish. 2). They are 15% over the current Title 24 and % above the....

Greg, a neighbor on Rosario Street, said there were still concerns due to the lot behind them being a foot higher which makes the houses taller. He was concerned with privacy impacts.

Don Ghetty, neighbor on Rosario, addressed staff on how high the first floor is behind their house. The Planning staff has worked hard

Mark, neighbor down the street, was hoping they could raise the fences higher so their fence could ....

Don asked staff to address that; staff said the Council can add a condition.

Lincoln said he would accept a condition to work with the neighbors on adding trees

Mayor Saylor closed the public hearing.

Rochelle asked if a fence height could be allowed for the neighbors behind the

subdivision. Staff said it is a 7 foot max fence height. Mike said.....and explained how neighbors requested we re-look at definitions of floor, basement, heights etc.

Sue G asked if this subdivision were large lots. She asked if their could be a mitigation fund.

SSouza asked the CA if the CC could have a fund to put up a fence and more landscaping .....CA said ask staff and a staff report should come back on the mitigations.

SSouza moved SR and 3 conditions of approval; new fence up to 7' landscaping for screening and .....Staff to come back with direction with SG seconded. Swanson said a max height of 7'. Mike said those conditions may not be acceptable to the applicant.

Saylor said maybe this item should come back next week and let staff and applicant work this out with the neighbors first and come back. Sue G. agreed.

Swanson said it is all about mitigating...

Continued item to next week.

Go to RDA Agenda at 8:10 pm.

Go to Item #9, Entitlement Review processes after RDA item.

Final Map for Verona, Subdivision No. 4772

Final Map for Verona, Subdivision No. 4772 (*Interim Public Works Director Robert Clarke/Interim City Engineer Will Marshall*)

Recommendation:

1. Approve the attached Resolution which approves the Final Map and authorizes the City Manager to execute the Subdivision Agreement, which reflects the recommended amendment.
2. Approve the attached Resolution which authorizes the City Clerk to accept the easement offered for dedication from the adjacent HOA.

Will Marshall, Interim City Engineer, presented the staff report.

Mayor Saylor opened and closed the public hearing, receiving no comments.

S. Souza moved staff recommendation of approving the resolution to approve the Final Map and authorizes the City Manager to execute the Subdivision Agreement and approve the resolution to authorize the City Clerk to accept the easement offered for dedication from the adjacent HOA. J. Krovoza seconded the motion and it passed 5 to 0.

Alternative Entitlement Review Processes

Alternative Entitlement Review Processes (*Community Development & Sustainability Director Ken Hiatt/Principal Planner Michael Webb*)

Recommendation:

1. Provide feedback on the merits of modifying certain application review procedures as outlined in the report

2. Direct staff to initiate processing the necessary code amendments to expand the list of projects that may be approved via the administrative review process to include the following:
  - a. Co-location of new antennas/equipment on existing cellular towers not within 500 feet of residential districts
  - b. Final Planned Developments for new commercial buildings or additions
  - c. Revised Final Planned Developments for commercial or residential projects for discrete additions (not wholesale changes to residential subdivisions)
  - d. New homes or additions resulting in six or more bedrooms (continue to require specific findings)
3. Direct staff to undertake necessary research and code amendments to implement an expanded “ministerial” second unit program, including exploration of a “pre-packaged second unit” as described in the report

Ken Hiatt, Community Development & Sustainability Director, explained where efficiencies could be made in regards to public hearings and staff time.

Mike Webb, Principal Planner, explained the fiscal impacts on staff time as balanced with the need for appropriate public comment and review. Alternatives could be an administrative review process such as for design reviews and specific types of CUPS. He said staff was requesting for consideration of expanding the ministerial second unit program as well as consider a pre-packaged second unit program similar to Santa Cruz. He also explained how there could be a zoning administrator appointed but after review with the Planning Commission, it didn't look like that would be an efficient way to review items.

Mayor Saylor asked for public comments.

Mark Braly, Chair of the Planning Commission, agreed with the staff report and the staff recommendation.

Lucas Frerichs, Vice-Chair of Planning Commission, said the City of Santa Cruz has done an excellent job with their program of second units. He requested the Planning Commission be allowed to work with staff on this.

There were no more public comments.

More questions/discussion.

Sue G. felt strongly about this issue. To approve staff recommendation would be a major departure from our Davis ideals. She said we have had problems with trusting staff before. The Planning Commission process brings people out; if we approve this, there will be no public process. This is a very slow period. Like we have had complaints from people on co-locations like the OEste neighborhood and water tank. Also, the 6 bedroom CUP, every lot is different so it won't always work – a good process makes for good neighbors. There was a reason for



the 6 bedroom ordinance, I see no reason to change it. A FPD, once this was negotiated with neighbors, we shouldn't easily change it. Just tonight, this was shown that we needed a process, neighbors weren't happy.

Saylor asked if we could pursue these with a 2-year pilot process? Ken said we could try some of these, come back with a staff report on the structure.

Rochelle said this could maybe be an example of staff working with PC on this such as with commercial projects...

Saylor said the comments from Rochelle on the work plan make the ... He would like staff to come back with the details....

S. Souza said he agreed with not wanting to restrict participation. He liked the idea of sending this back to staff through the PC to be looked at. And then we can look at it again. We should continue to look at how to

S. Souza moved to direct staff to work with the Planning Commission on a process to change codes for the Administrative review process with the four items suggested in the staff report. He added any other item the Planning Commission would potentially want in there. J. Krovoza seconded the motion.

S. Greenwald substituted the motion to keep the existing processes but send the item of second units back to the Planning Commission. There was no second.

R.Swanson moved that this item go back to Planning Commission to review the Municipal Code and the zoning ordinance. S.Greenwald seconded the motion with the amendment that it includes the status quo.

Passed 4 to 1.  
(Don voted no, ?.)

Selection of  
Consultant to  
Conduct an Ex-  
ecutive Recruit-  
ment for a City  
Manager

Selection of Consultant to Conduct an Executive Recruitment for a City Manager  
(*Council Subcommittee Greenwald-Krovoza/Human Resources Administrator  
Melissa Chaney*)

Recommendation: Approve Resolution Authorizing the Mayor to Execute an Agreement with Ralph Andersen and Associates for Executive Search Services, in an amount not to exceed \$25,000

Council Members Greenwald and Krovoza said they had reviewed the list of consultants, interviewed the top three and did spot checks on their selection of Ralph Andersen and Associates.

R. Swanson moved approval of the Resolution authorizing the Mayor to Execute an Agreement with Ralph Andersen and Associates for Executive Search Services in an amount not to exceed \$25,000. S. Souza seconded the motion and it passed unanimously 5 to 0.

WENT to Consent Item #4B off the consent calendar.

City Council  
Vacancy

City Council Vacancy (*Interim City Manager Paul Navazio/City Clerk Zoe Mirabile*)

Recommendation:

1. Discuss options available for filling prospective Council vacancy
2. Provide direction to staff regarding:
  - A. Desired process to be used to fill a Council vacancy
  - B. Repealing or amending the outdated Municipal Code related to Council vacancies
  - C. Direct staff to agendize appointment of Mayor for the regular meeting of January 11, 2011, or at an earlier special meeting, if desired

Don recused himself at 9:49 pm from the meeting; explained that it was not illegal for him to participate in the discussion of replacing him but thought it better for the Council to decide on their own..

Interim City Manager Paul Navazio presented the staff report.

SG asked if we could take the Mayor office and discuss the rest of the SR. JK agreed. SSouza and RW were in consensus.

Harriet Steiner, CA, explained how the City Municipal Code is out of date. She explained the alternatives to either update the CM to the correct amount of days or call a special election. The CC could appoint an interim appointment pending a special election based upon a petition with certain percentages.

SSouza would be to amend the City Code with...

SG said she would go with the State Code.

JK said he was for amending our City Code to comply with State law so we have the provision to appoint and interim

RS moved that we amend the city Code with the amendment of ..... Souza seconded the motion. Passed 4 to 0.

Harriet said this could come back with an Urgency ordinance next week.

To appoint someone, the person has to 18, voter, City resident etc. have until March 4<sup>th</sup> to appoint.

If a Special Election, with the timing, it would be in November. The earliest would be June 11<sup>th</sup> and it could be a mail in ballot but it doesn't save much money.

If appoint someone, it has to all be done in public. All interviews has to be done in public.

The drop dead date is March 4<sup>th</sup>.

Public Comment:

David Greenwald had a couple of concerns; one was if the School District has a parcel tax in May and the City could piggy-back on that. BUT not great to wait that long for someone. But not in the best

Kemble Pope said you should have a good discussion now about this subject.

He thanked Kemble Pope and David Greenwald.....he said to only have 4 people to make decisions is a big responsibility.

Paul said it is too early to assume if the School District will act on

SSouza said the expense is \$60-\$220,000 for a special election. He wanted to do the appointment process. This has been done by the School District across the street and has worked before for the community. This is a very good process and has worked before so we don't need to re-invent the process.

RSwanson felt an appointment was more appropriate at this time. She said she would want to bolster the School District process with more public forums like the League of Womens Voters and push the envelope to 60 days. But we need to

SG said it looks like we will go to appointment and announce that so the public knows. But I want to discuss the process, that is important to go over the details in the ensuing weeks.

JKrovoza said he would endorse the process the school district used in the past, the community is used to that. He would like a subcommittee to work out the forums. He would like to direct staff to set up a process and bring back a sketch at our meeting next week. If we can initiate the process next week before Saylor is sworn in on January 3<sup>rd</sup>, that would be great; if not, we have a special meeting on January 4<sup>th</sup>.

Rochelle didn't want a sub-committee with only 4 people here.

SG said she didn't want staff to make the process; she wanted to discuss it in public. She said with an apptmt. We could get someone who doesn't like campaigning...

SSouza said he liked the idea of having a outline next week and opening the application time frame for 2 weeks beginning January 4<sup>th</sup>. It would be a clear process with consensus.

Paul suggested staff could bring back just a shell for the process and the Council could flesh it out. He pointed out the time constraints with the holidays of having a the timeline done.

Sue G said we don't need to completely finetune the process to open the application process.

S. Souza moved to direct staff to come back with an application format so when we come back on January 4<sup>th</sup> we .....R. Swanson seconded with amendment that we come back on the ; she dropped the special amendment.

Paul queried that staff will come up with a draft application with more extensive questions and the Council can change it. Harriet asked if the Commission application would work? Sue G. said ok but not the Planning Commissioner app.

Vote: Passed 4 to 0.

Paul asked do you want this on next weeks Agenda as a supplemental report?

RW: suggested that staff contact the press and others to post the supplemental items and alert people.

Brief Communi-  
cations

Long Range  
Calendar

Swanson announced she was picked for .....

Saylor said today was the grand opening of the Davis public library and it is beautiful....

Also this Friday from ? to 12:30 pm, SACOG forum in Sacramento; hope staff can attend.

New RDA Calendar.....

SSouza said he will be gone in January when the Council retreat is.; they will re-schedule.

HSteiner said ...

Paul Navazio pointed out there is a meeting with the Pacific Railroad regarding the pending fencing....will go on the agend informally.

Joe said CC meeting on January 11<sup>th</sup> instead of the 18<sup>th</sup>...

Rochelle said there was National Abusement month..

Don recused himself at 9:49 pm from the meeting; explained that it was not illegal for him to participate in the discussion of replacing him but thought it better for the Council to decide on their own..

Adjournment      The meeting was adjourned at 10:46 p.m.