

MINUTES OF THE MEETING OF THE DAVIS CITY COUNCIL
JULY 26, 2005

The City Council of the City of Davis met in regular and closed session at 5:30 p.m. in the Community Chambers, 23 Russell Blvd., Davis, California. The meeting was called to order by Mayor Asmundson.

Roll Call: Councilmembers Present: Sue Greenwald, Ted Puntillo, Don Saylor, Stephen Souza, Ruth Asmundson.

 Councilmembers Absent: None.

 Other Officers Present: City Manager James Antonen, City Attorney Harriet Steiner, Deputy City Clerk Zoe Mirabile.

Closed Session The City Council ordered a closed session of the City Council be held for the purpose of discussing and, if necessary, taking action on the following issues:

- A. Conference with Legal Counsel – Anticipated Litigation. Initiation of litigation pursuant to subdivision (c) of §54956.9: one case.
- B. Conference with Legal Counsel – Existing Litigation pursuant to subdivision (a) of §54956.9. Union Pacific v. City of Davis, Case No. CV05903.
- C. Conference with Labor Negotiator. Agency Designated Representatives: City Manager Jim Antonen, Human Resources Administrator Melissa Chaney, Finance Director Paul Navazio, Consultant Gene Bell. Employee Organizations: Davis City Employee Association, Professional and Support Employee Association, Management Unit, Department Heads, Firefighters Local 3494.
- D. Public Employee Performance Evaluation. Title: City Manager.

City Council moved into closed session and upon returning to open session, Mayor Asmundson announced there was no reportable action except the following:

City Attorney Steiner reported that the Council voted to defend the lawsuit Union Pacific v. City of Davis, Case No. CV05903 by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Item Submitted by Councilmember Included on Agenda Mayor Asmundson announced the item on the agenda submitted by Councilmember - Resolution of the Davis City Council Supplementing the Passage of a Franchise Renewal Agreement Between the City and Comcast of California, Calling for Quality Service and Labor Harmony – should have Council consensus for discussion.

T. Puntillo moved, seconded by S. Souza, approval of including item submitted by Councilmember on the agenda. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Approval of Agenda T. Puntillo moved, seconded by D. Saylor, approval of the agenda as submitted. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Consent Calendar

Resolution No. 05-230 - Authorizing the City Manager to Enter Into Agreement (71-01-57-06) with the Area 4 Agency on Aging for Information and Assistance Services Contract Renewal for Fiscal Year 2005-2006 in the Amount of \$34,614, and to Authorize the Partial Subcontract to the Cities of West Sacramento and Woodland.
Approved.

Resolution No. 05-231 - Rejecting All Bids for Corporation Yard Bins, CIP No. 8512.
Approved.

Resolution No. 05-232 - Authorizing the City Manager to Execute Amendment No. 2 to the Consultant Agreement with Brown and Caldwell for AB303 Groundwater Management Plan, CIP No. 8543.
Approved.

Resolution of Intention to Annex Territory to Community Facilities District and to Authorize the Levy of Special Taxes Therein – Community Facilities District No. 1990-3 (North Central Davis) Annexation No. 3 (Cassel Lane Subdivision).
Item removed by S. Greenwald for further discussion and separate vote.

Resolution No. 05-234 - Authorizing the City Manager to Enter Into the Agreements Necessary to Extend the Site Lease Agreement with the Tierra Del Oro Girl Scout Council for Public Building (Also Known as the Girl Scout Cabin) in Slide Hill Park Through September 30, 2005.
Approved.

Resolution No. 05-235 - Authorizing the City Manager to Enter Into an Agreement for Use and Maintenance of the Tennis Courts and Related Landscaping Maintenance at Davis Senior High School with the Davis Joint Unified School District.
Approved.

Yolo Regional Treated Surface Water Project:

1. Resolution No. 05-236 - Authorizing the City Manager to Execute the Memorandum of Understanding for Environmental Review of the Yolo Regional Treated Surface Water Project, CIP No. 8543.
2. Resolution No. 05-237 - Authorizing the City Manager to Execute Amendment No. 1 to City of Davis/UC Davis Water Management Memorandum of Understanding, CIP No. 8543.
3. Resolution No. 05-238 - Authorizing the City Manager to Execute Amendment No. 3 to the Consultant Agreement with West Yost & Associates for City of Davis/UC Davis/Woodland/YCFCWCD Joint Water Supply Feasibility Study, Environmental Impact Report Support for 2006 and 2007, CIP No. 8543.
4. Proposed Letter to Potential Water Sellers on Behalf of All Entities Regarding Summer Water Rights and the Project Environmental Impact Report Process.
5. Budget Adjustment #7 (\$355,500) Allocation of Participating Agency Project Funding Contributions.

Approved.

Budget Adjustment #5 (\$23,860) Allocating Funds for Purchase of SymPro Treasury Management Software.
Approved.

Budget Adjustment #6 (\$1,082,500) Allocating Funds for the Acquisition of the McConeghy Farm.

Approved.

Human Relations Commission Draft Diversity and Discrimination Survey.

Item removed by D. Saylor and S. Greenwald for further discussion and separate vote.

Job Specification Updates – Housing Programs Manager; Wastewater Treatment Plant Maintenance Technician I/II; Wastewater Treatment Plant Senior Maintenance Technician; Senior Engineering Technician; Senior Civil Engineer; Assistant/Associate Civil Engineer; Senior Engineering Assistant; Engineering Assistant.

Approved.

Report on City of Davis and UCD Fire Departments Partnership Study.

Item removed by T. Puntillo and S. Greenwald for further discussion and separate vote.

Ordinance Amending Section 22.04.010 of the Municipal Code of the City of Davis Relating to the Decrease of Prima Facie Speed Limit – Speed Limit Increase on Portions of Chiles, John Jones and Pole Line Roads.

Item removed by D. Saylor for further discussion and separate vote.

Ordinance Amending Section 22.04.010 of the Municipal Code of the City of Davis Relating to the Decrease of Prima Facie Speed Limit – Speed Limit Reduction on Portions of Covell/Mace and Lake Boulevards

Item removed by D. Saylor for further discussion and separate vote.

Commission Minutes

Planning Commission Regular Meetings of February 9 and June 8, 2005.

Informational.

Safety Advisory Commission Regular Meeting of June 9, 2005.

Informational.

City of Davis/Yolo County 2x2 Regular Meeting of June 14, 2005.

Informational.

Bicycle Advisory Commission Regular Meeting of May 16, 2005.

Informational.

City of Davis/Davis Downtown Business Association 2x2 Regular Meeting of May 23, 2005.

Informational.

Social Services Commission Regular Meetings of May 2, June 20 and July 11, 2005.

Informational.

Finance and Budget Commission Special Meetings of May 25 and June 2, 2005 and Regular Meeting of June 13, 2005.

Informational.

Proposed Letters in Opposition to the Federal Energy Bill H.R. 6 Provision Exempting Methyl Tertiary Butyl Ether (MTBE) Manufacturers from Liability.

Approved.

Resolution No. 05-229 – in Support of the Third Annual Governor’s Ball for the Benefit of Yolo County SPCA and the Agora Project.

Approved. Resolution was ceremonially presented to Kemble Pope.

T. Puntillo moved, seconded by D. Saylor, approval of the consent calendar as amended. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Resolution of Intention to Annex Territory to Community Facilities District and to Authorize the Levy of Special Taxes (Cassel Lane Subdivision)

S. Greenwald moved, seconded by S. Souza, approval of Resolution No. 05-233 - Intention to Annex Territory to Community Facilities District and to Authorize the Levy of Special Taxes Therein – Community Facilities District No. 1990-3 (North Central Davis) Annexation No. 3 (Cassel Lane Subdivision). The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Human Relations Commission Draft Diversity and Discrimination Survey

By consensus, Council accepted the Human Relations Commission Draft Diversity and Discrimination Survey as informational.

Report on City of Davis and UCD Fire Departments Partnership Study

T. Puntillo moved, seconded by S. Souza, acceptance of final report on City of Davis and UCD Fire Departments Partnership Study and direction to staff to continue to identify and implement opportunities to maximize existing resources. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Ordinance Amending Section 22.04.010 of the Municipal Code Relating to the Decrease of Prima Facie Speed Limit – Increase on Chiles, John Jones and Pole Line Roads

T. Puntillo moved, seconded by R. Asmundson, adoption of Ordinance No. 2214 - Amending Section 22.04.010 of the Municipal Code of the City of Davis Relating to the Decrease of Prima Facie Speed Limit – Speed Limit Increase on Portions of Chiles, John Jones and Pole Line Roads. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Asmundson.
NOES: Saylor, Souza.

Ordinance Amending Section 22.04.010 of the Municipal Code Relating to the Decrease of Prima Facie Speed Limit – Reduction on Covell/Mace and Lake Boulevards

T. Puntillo moved, seconded by R. Asmundson, adoption of Ordinance No. 2215 - Amending Section 22.04.010 of the Municipal Code of the City of Davis Relating to the Decrease of Prima Facie Speed Limit – Speed Limit Reduction on Portions of Covell/Mace and Lake Boulevards. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Public Comments

Terry Dunlap spoke in support of proposed noise ordinance revisions.

Zo Toby, Frank Mowrey and John Leathers spoke in support of Council consideration of choice voting.

Ivy Anderson spoke regarding treatment of minorities by the Police Department.

Dean Johansson, Christopher Jones, Lassanya Porter, Lucas Foster and Michelle Juliet relayed incidents of alleged profiling and harassment by the Police Department and requested an investigation of Police Department actions.

Council, City Manager and City Attorney Communications

- a. Long Range Agenda Councilmember Saylor requested agenda consideration of an appropriate memorial to Professor David Risling, Jr.
- b. Open Space Commission Mayor Pro Tem Greenwald and Councilmember Souza attended the Open Space Commission which included a presentation on the Davis greenway concept, an integrated bicycle and pedestrian system of contiguous paths in and around Davis that would never encounter traffic.
- c. Recreation and Park Commission Mayor Pro Tem Greenwald attended the Recreation and Park Commission where discussion included the Mace Ranch Park Fire Pit and the Howatt Ranch recreation complex proposal.

Public Hearing:
Medical Marijuana Dispensaries – Ordinances Addressing Land Use and Establishment of Dispensaries and Extending the Moratorium and Requiring a Conditional Use Permit on Any and All Dispensaries Through July 31, 2006

Assistant Police Chief Steven Pierce explained that on June 6, 2005 the United States Supreme Court in *Gonzalez v. Raich* ruled that California's law allowing marijuana to be used for medical purposes violates the U.S. Constitution Commerce Clause. The proposed ban on medical marijuana dispensaries would alleviate the necessity of reconciling inconsistencies between federal and state laws.

Mayor Asmundson opened the public hearing.

Nathan Sands, Compassionate Coalition, spoke in opposition to the proposed ban.

Mayor Asmundson closed the public hearing.

T. Puntillo moved, seconded by D. Saylor, adoption of Ordinance No. 2216 - An Extension of Urgency Interim Zoning Ordinance Establishing a Moratorium and Requiring a Conditional Use Permit on Any and All Medical Marijuana Dispensaries From July 31, 2005, Through and Including July 31, 2006, Unless Modified By Further Action of the City Council, to Take Effect Immediately. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

D. Saylor moved, seconded by T. Puntillo, introduction of Ordinance Amending Section 40.01.010 (Definitions) and Adding Section 40.26.275 (Medical Marijuana Dispensaries) of Chapter 40 of the City of Davis Municipal Code to Address Current Concerns Regarding Land Use and Establishment of Medical Marijuana Dispensaries Within the City of Davis. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Public Hearing: Nuisance, Administrative Citation, Resale and Noise Ordinance Revisions

Chief Building Official Mark Wood presented an overview of the proposed Administrative Citation Ordinance and Nuisance/Resale/Noise Ordinance amendments intended to work cooperatively to provide comprehensive and efficient implementation tools for enforcement of the Code Enforcement Program.

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

T. Puntillo moved, seconded by D. Saylor, introduction of the following ordinances:

1. Ordinance of the City of Davis Replacing Articles 23.01, 23.02, 23.03, 23.04, 23.05 and 23.06 of Chapter 23 of the Davis Municipal Code Related to Nuisance Abatement and Enforcement and Establishing Administrative Citation Authority to Specified City Staff in Certain Circumstances.
2. Ordinance of the City of Davis Replacing Articles 8.10, 8.11 and 8.12 of the Davis Municipal Code Related to Resale of Property.
3. Ordinance of the City of Davis Replacing Article 24 of the City of Davis Municipal Code Providing Standards, Procedures and Penalties to Regulate Noise Sources and Levels Within the City.

The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

S. Souza moved, seconded by D. Saylor, introduction of Ordinance of the City Council of the City of Davis Amending Chapter 1 General Provisions to Include Section 1.02 to the Municipal Code of the City of Davis to Provide for the Authority to Issue Administrative Citations to Enforce Any Provision of the Municipal Code. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

T. Puntillo moved, seconded by S. Souza, approval of Resolution No. 05-239 - Revising the City of Davis Master Fee Schedule for the Community Development Department. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Public Hearing: Ordinance Approving Cable Franchise Renewal Agreement with Comcast of California

Social Services Administrator Jerilyn Cochran explained the negotiated cable franchise agreement with Comcast of California, along with the corresponding side letters, defines the compensation to the community for use of streets and right-of-way. The agreement includes provisions for more access channels, a system rebuild, an Institutional Network linking government, school and community sites and support for equipment upgrades and operations of community media.

Kevin Wolf, Davis Community Television, spoke in support of the agreement and requested consideration of diversified funding for community media.

Max Rothe requested specific cable channels and availability of manuals or troubleshooting publications at the Davis Public Library.

Comcast representatives Sanford Inouye and Gilbert Martinez spoke in support of the agreement and relayed information on current legislative affairs concerning telecommunications and franchising.

Stephen McMahon, Telecommunications Task Force, spoke in support of the agreement and stated the challenge will be in continuing to finance community media and encourage its evolution.

D. Saylor moved, seconded by S. Souza, introduction of Ordinance of the City Council of the City of Davis Granting Comcast of California X, Inc., Renewal of its Nonexclusive Franchise to Construct, Operate and Maintain a Cable Communications System Within the City of Davis Subject to the Terms and Conditions Set Forth in the Franchise Renewal Agreement. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

S. Greenwald moved, seconded by S. Souza, approval of three side letters to the cable franchise agreement regarding settlement, interconnection and the institutional network. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Item Submitted by Councilmember Saylor:

Social Services Administrator Jerilyn Cochran explained the proposed resolution was initiated by Communications Workers of America to request Council commitment in assuring fair compensation to local cable operators and adherence to fair labor practices.

Resolution Supplementing the Passage of a Franchise Renewal Agreement Between the City and Comcast of California, Calling for Quality Service and Labor Harmony

Lisa Morrowitz, Communications Workers of America, and Stephen McMahon, Telecommunications Task Force, spoke in support of the resolution.

Sanford Inouye, Comcast, stated labor issues are dealt with through state and federal law.

City Attorney Steiner stated the resolution would serve as a policy statement and is not binding on Comcast as the City does not have direct regulatory authority over labor issues raised in the resolution.

D. Saylor moved, seconded by T. Puntillo, approval of Resolution No. 05-241 – Supplementing the Passage of a Franchise Renewal Agreement Between the City of Davis and Comcast of California, Calling for Quality Service and Labor Harmony as amended. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Affordable Housing Projects – Ownership Structures and Developer Fee Issues

By consensus, Council directed this issue be deferred to a future meeting.

Eleanor Roosevelt Circle Affordable Housing Funding Commitments

Social Services Administrator Jerilyn Cochran explained the Eleanor Roosevelt Circle project will provide 60 units of affordable housing on an in-fill site within the city to serve very-low, low and moderate income seniors with services aimed at maintaining seniors in independent living for the greatest possible time period. Initial funding

commitments to the project were made in February 2005; an additional funding request is due to significantly increased project costs.

Bill Powell, Davis Senior Housing Cooperative; David Thompson, Neighborhood Partners; and Luke Watkins, Yolo County Housing Authority, spoke in support of the proposed funding commitments and stated the project partners have been very diligent in keeping costs down.

S. Greenwald moved, seconded by S. Souza, approval of Resolution Authorizing Housing Loans for Davis Senior Housing Cooperative Eleanor Roosevelt Housing Project subject to conditions.

T. Puntillo moved substitute motion, seconded by D. Saylor, approval of Resolution No. 05-240 – Authorizing Housing Loans for Davis Senior Housing Cooperative Eleanor Roosevelt Housing Project subject to conditions as amended to reflect that up to 25 percent of cash payout of developer fees are at risk through the permanent loan closing phase of the project. The motion passed by the following vote:

AYES: Greenwald, Puntillo, Saylor, Souza, Asmundson.
NOES: None.

Adjournment

The meeting adjourned at 11:43 p.m. to the next regularly scheduled meeting.

Respectfully submitted,

ZOE S. MIRABILE
Deputy City Clerk