

MINUTES OF THE DAVIS CITY COUNCIL
Meeting of September 9, 2008

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: Sue Greenwald, Lamar Heystek, Don Saylor, Stephen Souza, Ruth Asmundson

Councilmembers Absent: None

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

Closed Session City Council convened a closed session to discuss the following:
Conference with Legal Counsel – Existing Litigation pursuant to subdivision (a) of Government Code §54956.9. California State Water Resources Board: Administrative Hearing City of Davis NPDES Permit No. CA 0079049: Petition of California Sportfishing Protection Alliance (Waste Discharge Requirements Order No. R5-2007-0132 [NPDES No. CA0079049] for the City of Davis Wastewater Treatment Plant, Yolo County), Central Valley Water Board: SWRCB/OCC File A-1B94

City Council returned to open session at 6:32 p.m. with no reportable action.

Approval of Agenda L. Heystek moved, seconded by D. Saylor, approval of the agenda and to adjourn the meeting in memory of Fairfield Councilmember Matt Garcia, Gayle Sandy and Robert Cooper. Motion passed unanimously.

Ceremonial Presentation Mayor Asmundson presented a Proclamation Recognizing September 2008 as Prostate Cancer Awareness Month.

Public Comments Ira Brae introduced himself as an applicant for the Recreation and Park Commission.

David Greenwald spoke regarding employee compensation for Fire Department community outreach events, and questioned the expenditures of public funds for such purposes.

Joy Cohan, DDBA, spoke regarding the newly established paid parking lot for the E Street Plaza, stating that most feedback from the public has been positive and the program will be reviewed in six months.

Matthew Crookstan requested City Council remove the Resolution Opposing Proposition 8 on the November 4, 2008 Ballot from the consent calendar, stating that it would be inappropriate for City Council to weigh in on a statewide proposition.

Doug Fedderly introduced himself as an applicant for the Natural Resources Commission.

Joe Sherman spoke regarding an incident wherein he was searched by a Davis police officer.

George Hague introduced himself as an applicant for the Social Services Commission.

Ron Hall spoke regarding environmental issues and requested City Council consider organizing neighborhood cooperatives to respond to national disasters.

Edward Schmidt spoke regarding his increased utility bill and requested City Council re-examine the fee methodology.

Dave Heard spoke regarding the proposed secure re-entry facility and expressed appreciation to City Councilmembers for their quick response to Yolo County's proposal.

Tara Richardson, Alice Enriquez and Rachel Searchin, Pinosh Pony Club, invited community members to an event honoring Gena Myles, Olympic silver medal winner in equestrian events.

Ruth Williams, Tree Davis, invited community members to a tree planting event sponsored by PG&E.

Consent Calendar

Budget Adjustment #127 (FY07-08) (\$386,875) – Allocating Unspent Water Capital Replacement, RDA Capital Project, and General Fund to Capital Improvement Project Budgets **Item also on Redevelopment Agency Consent Calendar**
Approved

Budget Adjustment #128 (FY07-08) (\$6,840,949) – Allocating Additional Debt Service Funds for Repayment Due to Retirements of Old and Issuance of New Bonds: 2000 RDA Tax Allocation Bonds; 2007 RDA Tax Allocation Bonds; 2007 PFFA Mello Roos; Mace Ranch 1999 PFFA Mello Roos; Mace Ranch II 2007 PFFA Mello Roos; Mace Ranch II, Redevelopment Agency Interfund Loan, Sewer Fund Interfund Loan and Storm Sewer Fund Interfund Loan **Item also on Redevelopment Agency Consent Calendar**
Approved

Budget Adjustments Allocating Additional Department of Employment and Social Services CalWORKs Stage 1 Revenue:

1. #130 (FY07-08) (\$69,423) – FY2007-2008 Budget
2. #24 (\$614,750) – FY2008-2009 Budget

Approved

Budget Adjustment #131 (FY07-08) (\$6,248) – Allocating Funds to Allow Repayment of HOME Program Funds to City's Line of Credit in Federal HOME Program

Approved

Budget Adjustment #132 (FY07-08) (\$220,000) – Allocating Sanitation Funds for Solid Waste Program Expenditures

Approved

Budget Adjustment #19 (\$59,108) – Allocating Fleet Services Funding for Fuel Facility Environmental Compliance Regulations to Include Enhanced Leak Detection Testing, Enhanced Vapor Recovery II, and Replacement of Dispenser Pans

Approved

1. Resolution No. 08-136 – Authorizing the City Manager to Enter Into an Agreement with First Five Yolo to Administer the Quality Enhancement Program and Submit to All Reporting Requirements for This Agreement

2. Budget Adjustment #23 (-\$35,213) – Allocating Reduction in Grant Funds from First 5 Yolo

Approved

1. Resolution No. 08-137 – Authorizing the City Manager to Enter Into an Amendment with the University of California, Davis, to Provide a Child Care Subsidy Program and Other Child Care Support Services and Submit All Reporting Requirements for This Amendment
2. Budget Adjustment #25 (-\$6,696) – Allocating Reduction in Resource and Referral Funds from UC Davis

Approved

Budget Adjustment #26 (\$13,466) – Allocating Reimbursement to Developer for Water Service Improvements to Los Robles Manors, Subdivision No. 4630

Approved

1. Resolution No. 08-138 – Authorizing the City Manager to Accept a Grant From Pacific Gas and Electric Company (PG&E), and to Enter Into an Agreement with PG&E to Use the Grant Funds for the Development of a Public Art Project to Be Erected Within the City of Davis, Addressing Individual and/or Community Climate Action and Carbon Footprint
2. Budget Adjustment #29 (\$35,000) – Allocating PG&E Grant and Municipal Arts Funding

(1) Approved resolution and budget adjustment; and (2) Directed staff and the Civic Arts Commission to issue a Request for Qualifications and implement the artist selection process utilizing the city's Public Arts Acquisition Guidelines

1. Resolution No. 08-139 – Approving Acceptance of the Yolo-Solano Air Quality Management Clean Air Funds Grant for Fiscal Year 2008/2009
2. Budget Adjustment #30 (\$18,434) – Allocating Grant Funds to Supplement Payment for Purchase of Three Electric Vehicles

Approved

Commission Minutes:

1. Bicycle Advisory Commission Regular Meeting of July 21, 2008
2. Finance and Budget Commission Regular Meeting of June 9, 2008
3. Natural Resources Commission Regular Meetings of April 28 and May 21, 2008
4. Planning Commission / Natural Resources Commission Joint Meeting of March 26, 2008
5. Planning Commission Regular Meeting of June 11, 2008
6. Safety and Parking Advisory Commission Regular Meeting of June 5, 2008
7. Social Services Commission Regular Meetings of May 19 and June 16; and Joint Meeting with Senior Citizens Commission of June 16, 2008
8. Tree Commission Regular Meetings of May 15 and June 19, 2008

Informational

City Council Minutes from the Special Meeting of July 12, and Regular Meetings of July 15, 22, 29 and August 1, 2008

Approved

Ordinance No. 2324 – Amending Section 40.01.090 of the Davis Municipal Code Rezoning the Parcel (APN #071-182-12) Located at the Southwest Corner of Alhambra Drive and Fifth Street Consisting of Approximately 8.55 Acres, From Planned Development (P-D) #4-88 (Retail Sub-Area) to Planned Development (P-D) #2-07 (Single-Family Residential) --Verona Subdivision

Adopted (Introduced 07/29/2008)

Request to Authorize Additional Time for Amplified Music During the Welcome Event for UC Davis Students to be Held in and Around the E Street Plaza on September 23, 2008

Authorized amplified music to continue until 11:00 p.m. during the welcome event

Report Recognizing September 2008 as National Preparedness Month
Informational

Request to Authorize Technical Correction to Line-of-Credit Agreement with Union Bank of California Related to Interim Financing for the Engineering/Design Phase of Secondary Upgrade to the Wastewater Treatment Plant

Authorized technical correction to clarify the formula used to establish underlying interest rate

Treasurer's Report for the Quarter Ended June 30, 2008
Informational

S. Greenwald moved, seconded by L. Heystek, approval of consent calendar as listed above. Motion passed unanimously.

Removed from
Consent Calendar:

Budget Adjustment
#18 (\$337,207) –
Allocating FTA
Funding Pass-
Through to Unitrans

Item removed by L. Heystek

By consensus, City Council directed staff to schedule an informational item regarding city bus service to include the city's participation on the Unitrans Advisory Committee.

L. Heystek moved, seconded by D. Saylor, to approve Budget Adjustment #18 (\$337,207) – Allocating Federal Transit Administration (FTA) Funding Pass-Through to Unitrans. Motion passed unanimously.

Resolution Opposing
Prop 8, a Constitutional
Amendment Initiative to
Eliminate the Right
of Same-Sex Couples
to Marry

Item removed by R. Asmundson and D. Saylor.

Dawn Student, Shannon Snow, Shelly Bailes and Ellen Pontac spoke in support of proposed resolution. Reasons included: Davis is on the cutting edge of social issues and has been a leader in understanding and acknowledging rights of gay community; City Council has a means to speak against the injustice of marriage laws; fundamental rights should be supported for all people; domestic partnerships do not offer the same dignity, respect and legal protections as marriage; and many members of faith-based community are opposed to Proposition 8.

Charles Aldous and Joe Sherman spoke in opposition to proposed resolution. Reasons included: City Council should not take a position on state-wide proposition; faith-based community opposing Proposition 8 should be given equal support; previous City Council action alienated faith community (e.g. support for pro choice activities). In addition, C. Aldous requested City Council table the issue.

D. Saylor moved, seconded by L. Heystek, approval of Resolution No. 08-140 – Opposing Proposition 8, a Constitutional Amendment Initiative to Eliminate the Right of Same-Sex Couples to Marry. Motion passed unanimously.

Certification of
Councilmember
Lamar Heystek's

Item removed by L. Heystek.

Councilmember Heystek reported on his purchase of property within the Redevelop-

Purchase Within the Redevelopment Area	ment Area. By consensus, Council accepted the following as an informational item: Certification of Councilmember Lamar Heystek's Purchase Within the Redevelopment Area. (Item also heard by Redevelopment Agency)
Plans and Specifications for Varsity Theatre Second Screen, CIP Nos. 8195 & 8197	Item removed by S. Souza. S. Souza moved, seconded by D. Saylor, the following: 1. Approved Plans and Specifications for Varsity Theatre Second Screen, CIP Nos. 8195 & 8197 2. Authorized bid advertisement Motion passed unanimously. (Item also heard by Redevelopment Agency)
Update on Sanitary Sewer Rates	Item removed by S. Souza and L. Heystek. S. Souza moved, seconded by L. Heystek, to direct staff to return to City Council on September 23, 2008 with an Urgency Ordinance that amends the Sewer Rate Ordinance to establish a "cap" retroactive to the August 1, 2008 billing cycle. Motion passed unanimously.
Resolution Authorizing Amendment to Contract with Robert Aaronson to Complete Investigation of 2007-08 Grand Jury Report Findings Related to the Fire Department	Item removed by L. Heystek. L. Heystek moved, seconded by S. Souza, approval of Resolution No. 08-141 - Authorizing the City Manager to Execute Amendment to Contract with Robert Aaronson, to Extend Existing Contract to Complete Investigation of 2007-08 Grand Jury Report Findings Related to the Davis Fire Department. Motion passed unanimously.
Solano Transportation Authority Presentation Regarding State Route 113 Major Investment and Corridor Study	Bob Kalleg and Robert Guerrero, Solano Transportation Authority, presented information on the State Route 113 Major Investment and Corridor Study, an assessment of current and anticipated future travel patterns, and outlined potential options to address traffic impacts and improve safety along the corridor from north of SR-12 through Interstate-80 interchange at Davis southerly boundaries. By consensus, City Council directed staff to provide a follow-up report when the study is finalized.
Proposed Secure Community Reentry Facility in Yolo County	Deputy City Manager Kelly Stachowicz reported on her attendance at the Yolo County Board of Supervisors meeting earlier in the day wherein the discussion focused on three proposed sites for a secure community reentry facility, a correctional facility owned and operated by the California Department of Corrections. Stachowicz summarized the public comments, which were primarily opposed to a reentry facility located within the county and concern over lack of noticing and community input. The Board removed two of the three proposed sites from consideration: Yolo County Airport and southeast of Esparto. In addition, the Board tabled discussion of the site east of Madison. City Council recessed at 9:18 p.m. and reconvened at 9:26 p.m.
Resolution Authorizing Consultant Agreement with Carollo Engineers for Development of Final Design for the	Public Works Director Bob Weir provided a summary of staff responses and follow-up information in response to City Council requests from their July 22 and 29, 2008 discussions regarding the design contract for the Wastewater Treatment Plant Secondary Process Replacement Project, including the results of a third-party review of the proposed design contract and overall project costs and an update of projected impact of project on ratepayers.

Davis Wastewater Treatment Plant Secondary Process Replacement Project

Doug Fedderly stated that proposed alternatives to tertiary treatment are viable.

S. Greenwald moved, seconded by L. Heystek, to request Dr. George Tchobanoglous and Dr. Edward Schroeder to conduct a study and take a fresh look at the most cost efficient, fiscally feasible way to meet Davis' water and wastewater needs, with a quick timeline.

D. Saylor moved substitute motion, seconded by R. Asmundson, to approve the following:

1. Resolution No. 08-142 – Authorizing the City Manager to Execute Consultant Agreement with Carollo Engineers For a Not-to-Exceed Amount of \$3 Million for Work to Advance the Development of Final Design of the Wastewater Treatment Plant Secondary Process Replacement Project, including authorization for the City Manager to make any final modifications to the agreement, after consultation with the City Attorney, provided that the not-to-exceed amount does not change
2. Direct staff to report back to City Council no later than December 15 on the status of design and results of efforts to pursue regional alternatives, consider reuse on adjacent land and conduct value engineering efforts; report shall include a detailed project schedule, budget and complete description of project components

Motion passed by the following vote:

AYES: Greenwald, Saylor, Souza, Asmundson

NOES: Heystek

L. Heystek moved, seconded by S. Souza, to request Drs. Tchobanoglous and Schroeder to conduct an analysis as outlined above in S. Greenwald's previous motion.

S. Greenwald offered a friendly amendment to direct the City Manager to determine if Drs. Tchobanoglous and Schroeder are available and interested, what would be required to perform a sufficient study, and a cost estimate of the same. Amendment accepted by mover and second. Motion passed by the following vote:

AYES: Greenwald, Heystek, Souza, Asmundson

NOES: Saylor

City Website Accessibility and Regulatory Role Regarding Local Business Websites

D. Saylor moved, seconded by L. Heystek, to extend the City Council meeting as needed in order to complete all items on the agenda. Motion passed unanimously.

City Attorney Harriet Steiner provided an update on the Target Corporation class action lawsuit regarding accessibility of their website. In late August, Target reached a settlement with the National Federation of the Blind, currently pending approval, wherein Target will be improving their national website to comply with state laws and commit to work with the National Federation of the Blind to continue to look for improvements. In addition, \$6 million fund was set aside for individuals who claim they were unable to access the website.

H. Steiner explained that because of the Americans with Disability Act and other state and federal laws regarding accessibility, it may be beyond the city's scope to regulate local business websites. Any attempt by the city to regulate website accessibility will raise issues such as preemption and excessive regulation of commerce.

Information Technology Administrator Rick Guidara outlined staff efforts to comply with state and federal requirements.

By consensus, City Council directed staff to perform outreach efforts to educate businesses on accessible websites and to return with an update within a year.

Brief
Communications

L. Heystek stated the Recreation and Park Commission and Open Space and Habitat Commission requested authorization to form a 2x2 ad hoc subcommittee to discuss issues of mutual concern.

R. Asmundson stated community members have requested staff return to City Council with an analysis of Resolution No. 08-070 – Supporting the California Prevention of Farm Animal Cruelty Act.

Adjournment

The meeting was adjourned at 11:47 p.m. in memory of Councilmember Matt Garcia, Gayle Sandy and Robert Cooper.

Zoe S. Mirabile, CMC
Deputy City Clerk