

Woodland City Council Minutes
Council Chambers
300 First Street
Woodland, California

January 22, 2002

CITY COUNCIL
SPECIAL/CLOSED SESSION

The Woodland City Council met in special session at 6:01 p.m. in the second floor conference room of City Hall in order to convene a closed session. Council Members present were Vice Mayor Flory and Council Members Dote, Monroe and Peart. Mayor Borchard was absent. Also present were City Manager Rick Kirkwood, Assistant City Manager Phil Marler, City Attorney Ann Siprelle, Manufactured Homes Fair Practices Commission Attorney Andrew Pugno. The purpose of this Closed Session was to hold a Conference with Legal Counsel regarding anticipated litigation, significant exposure to litigation pursuant to Subdivision (b) of Section 54956.9, four cases.

CITY COUNCIL
REGULAR SESSION

Vice Mayor Flory announced that Council had met in Closed Session for the purpose of holding a Conference with Legal Counsel regarding anticipated litigation, significant exposure to litigation and will return to Closed Session following this meeting to continue discussion.

CALL TO ORDER

Vice Mayor Flory called the regular meeting of the Council to order at 7:05 p.m.

PLEDGE OF ALLEGIANCE

Vice Mayor Flory invited all in attendance to join the Council in the Pledge Allegiance.



ROLL CALL

COUNCIL MEMBERS PRESENT: Martie Dote, David Flory Jeff Monroe, Neal Peart, Steve Borchard (arrived at 7:56 p.m.)

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: Rick Kirkwood, Phil Marler, Ann Siprelle, Karl Diekman, George Bierwirth, Dan Bellini, Margaret Vicars, Ann Siprelle, Andrew Pugno, Roy Wilson, Heidi Hopper, Gary Wegener, Dick Donnelly, Henry Agonia, Steve Harris, Greg Moutinho, Paul Hanson, Sue Vannucci

ALSO PRESENT: Contract Planner Heidi Tschudin

COUNCIL MINUTES

On a motion by Council Member Dote, seconded by Council Member Monroe and carried by the Members present, Council approved the minutes of the Special Joint Council/Planning Commission of Meeting of November 13, 2001 and Regular Council Meeting of November 20, 2001.

COMMUNICATIONS - WRITTEN

Council received a Department of Alcoholic Beverage Control Application for a Person-to-Person License Transfer for the Arco AM/PM located at 313 W. Main Street.

Council received a letter from Chairperson Rosenberg of the Board of Supervisors inviting Council to address the Board in regard to A. B. 680.

On a motion by Council Member Dote, seconded by Council Member Peart and carried by the Members present, Council rejected a claim filed by Michael Jansen, Attorney, on behalf of Donna Bento, regarding an alleged fall in front of 1019 Third Street and referred this claim to the City's Insurance Representative.

Council received a Notice of Intent to File a Petition in regard to the Spring Lake Specific Plan Environmental Impact Report and the California Environmental Quality Act filed by Susan Pelican and Shawn Smallwood.



COMMITTEE REPORTS

Council received a report from Fire Chief Karl Diekman transmitting the minutes of the Yolo County Communications Emergency Services Agency meetings of September 5, November 7 and December 5, 2001.

Council received a report from Assistant City Manager Phillip Marler transmitting the minutes of the Manufactured Homes Fair Practices Commission meetings of January 3, 10 and 14, 2002.

Council received a report from Public Works Director Gary Wegener transmitting the minutes of the Traffic Safety Committee meeting of January 7, 2002.

PUBLIC COMMENT

None heard.

COUNCIL STATEMENTS AND REQUESTS

Council Member Peart stated that Mayor Borchard would like Council to consider placing an item on the next Council Agenda to send a letter to the County Board of Supervisors asking the County to take the lead in the request for Federal support to fund the difference between the Flood Barrier and Setback Levee should Setback not be NED solution. It was Council consensus to so place this item on the next Agenda.

Council Members Peart and Dote have met with our new Congressman effective January of 2003, Wally Herger, and feels comments regarding local concerns were well received by the Congressman. Council Member Peart requested that the Redevelopment Agency look at restoration of the Porter Building. This building is presently owned by an out of town businessman.

Council Member Dote said that at the County/City 2 X 2 meeting, the County indicated unanimous opposition to A. B. 680. Council Member Monroe indicated that Assemblywomen Helen Thompson has also indicated strong opposition.

Council Member Monroe stated that on the Design/Build for the Police Station, Panattoni had dropped from the process. City Manager Kirkwood said the Request for Proposal will come to the Council and be released to the applicants on February 6th.



Council Member Monroe indicated he has received several complaints in regard to the County Road 102 construction. Public Works Director Wegener said they are working on the Maxwell signal and it should be completed by mid-February.

City Manager Kirkwood said Council and staff has been working diligently on A. B. 680. Vice Mayor Flory had sent a letter to SACOG and their support has been received. They will be going to the Capital on Thursday. Council Members Dote and Peart will meet with Senator Machado.

PRESENTATIONS

LEAGUE OF CALIFORNIA CITIES "GRASS ROOTS" PROGRAM

Cody Tubbs, Regional Representative from the League of California Cities, gave Council a synopsis of current legislation and how it will affect the City. He outlined the purpose of the Grass Roots Program in that their efforts will focus on protecting local government finance and keep the pressure on at the State in that vein. He commended the City for their efforts with the Legislators regarding local funding preservation. The Vehicle In-Lieu Fees have been protected by the Governor. Additional efforts are in Proposition 42 which dedicates gas tax to transportation projects, League, Counties and Special Districts have been looking at a proposal to prohibit the State from taking any local revenues. Council Member Monroe asked if the measure would give back the property taxes already taken and Mr. Tubbs indicated it would not be written to recover. City Manager Kirkwood said there would be a meeting on January 31, 2002 with the County Board of Supervisors on these issues at which Mr. Tubbs will also be present.

LABOR GAP ANALYSIS

Bryce Birkman , Executive Director of the Woodland Economic Renaissance Corporation, stated that businesses require a great deal of information about the City when making their decision if they will locate here, especially the available labor force. They looked at the information to determine if there is a "gap" between the needs and the ability to train students to meet those needs. Requests for information were mailed to 968 businesses, with a 21% response rate. The demographics indicate that those employees who reside in the Sacramento metropolitan area have a higher level of education. The statistics indicate that further research is needed to focus on



specific categories of training, specifically work ethics and literacy that were identified as weaknesses in the responses.

Vice Mayor Flory asked if this report indicates a lack of understanding of the work force and Mr. Birkman said they are already working with businesses and schools to show them what we have available to increase awareness. Council Member Monroe said we need to prepare people for the interview process. They are not doing their homework about the prospective employer. Council Member Dote asked if the information had been shared with the Business Licensing Division for those that have gone out of business. Mr. Birkman will provide information to that Department at some point.

City Manager Kirkwood said one of the issues the report indicated was that of salary level concerns. Those hourly rates are at \$7 to \$11 and we need to attract businesses with higher wages. Mr. Birkman asked the employers which were the hardest positions to fill and they indicated those that need math skills.

Mayor Borchard arrived at 7:56 p.m.

NEW MISSION STATEMENT FOR POLICE DEPARTMENT

Lieutenant George Bierwirth stated that in October of 2001, the Department went through a Strategic Planning Process and looked at how the Department could become more effective and efficient. One of the main issues was a need to develop a new Mission Statement that would provide a statement of purpose and allow options. That new Mission Statement has been developed and is presented to Council for their review. Council Member Monroe said this statement fits the Department and how it can be effective for the Region. He commended the Staff for their work on the development.

City Manager Kirkwood announced that an Interim Chief has been appointed. His name is Dean Shelton.

NATIONAL MENTORING MONTH PROCLAMATION

On a motion by Council Member Monroe, seconded by Council Member Dote and carried by unanimous vote, the Council proclaimed the month of



January as National Mentoring Month. Council member Dote presented the Proclamation to Tania Garcia-Cadena, Yolo Connections Mentoring Coordinator.

DROP OFF YOUR JUNK DAY RECOGNITION

Recycling Coordinator, Heidi Hopper presented a report to Council on the "Drop Off Your Junk Days" held throughout the year. A.B. 939 had set guidelines for local governments to achieve a 50% diversion of materials by the year 2000. Our City has exceeded that diversion of materials by achieving a 73% diversion rate.

At 8:00 Vice Mayor Flory relinquished the Chair to Mayor Borchard.

CONSENT CALENDAR

Council Member Peart requested the following item be removed from the Consent Calendar:

EXTENSION TO CHARTER CABLE COMMUNICATION TELEVISION FRANCHISE AGREEMENT

On a motion by Council Member Dote, seconded by Council Member Peart and carried by unanimous vote, the Council approved the following Consent Calendar items:

CITY TREASURERS' REPORT FOR NOVEMBER 2001

Council reviewed and accepted the November Investment Report as submitted by the City Treasurer.

PROJECTS FUNDED UNDER THE 2000 PARK BOND ACT (PROPOSITION 12)

Council approved the following projects for consideration by the State for funding under the Per Capita Allocation under the 2000 Park Bond Act: Southland Park Automatic Irrigation at \$30,000, Skate Park at \$20,000, and Ferns Park Water Feature at \$20,000.



CONTRACT FOR COMPLETION OF CEMETERY FENCE PROJECT AND ALLOCATION OF FUNDS

Council awarded a contract to Arrow Fence Company for fabrication and installation of wrought iron fencing at the City of Woodland Cemetery in the amount of \$25,695.

CONTRACT FOR RECRUITMENT OF POLICE CHIEF

Council authorized the Assistant City Manager to execute a contract with William Avery and Associates, Inc., to conduct an executive search and recruitment for a Chief of Police for the City of Woodland in the amount of \$12,900 and up to \$5,000 in expenses.

TRAFFIC SAFETY GRANT FUNDING FOR FEDERAL FISCAL YEAR 2003

Council received information on the processes and procedures for submission of Federal grant requests for the Fiscal Year 2003.

PRIMARY AND ALTERNATE MEMBERS TO YOLO COUNTY COMMUNICATIONS EMERGENCY SERVICES AGENCY BOARD

Council appointed Fire Chief Karl Diekman as the City of Woodland primary representative and Assistant City Manager Phillip Marler as the alternate representative to the Yolo County Communications Emergency Services Agency Board of Directors, effective February 1, 2002.

RESOLUTION 4333 - APPOINTMENT OF NEW MEMBER TO WASTE ADVISORY COMMITTEE

Council adopted Resolution 4333, "A Resolution of the City Council of the City of Woodland Appointing a Member to Serve on the Yolo County Waste Advisory Committee", thus appointing Mitch Dion, Deputy Director of Public Works to so serve.



REPLACEMENT OF POLICE CANINE

Council authorized the expenditure of Asset Seizure funds for the associated training costs and replacement of K-9 Bene.

REORGANIZATION OF VOLUNTEER FIREFIGHTER PROGRAM TO RESERVE PROGRAM

Council approved the reorganization of the Volunteer Firefighter Program and created a Reserve Firefighter Program. These Reserve Firefighters will become Temporary City employees.

RESOLUTION 4334 - DESTRUCTION OF IDENTIFIED HUMAN RESOURCES RECORDS

Council adopted Resolution 4334, "Resolution of the City Council of the City of Woodland Authorizing Destruction of Certain Human Resources Records".

AGREEMENT TO FUND NEW COMMUNITY SERVICES OFFICER POSITION FOR TRAFFIC SAFETY EDUCATION IN SCHOOLS AND THROUGHOUT COMMUNITY

Council authorized the Police Department to enter into an Agreement with the State of California, Business, Transportation and Housing Agency, Office of Traffic Safety to fund a new Community Services Officer position for the purpose of Traffic Safety Education in our schools and throughout the community.

VEHICLE RELEASE FEE INCREASE

Council authorized the increase in Vehicle Release Fees collected by the Police Department to offset the administrative costs of processing vehicles towed and impounded by the Department from \$25.00 to \$150.00. These fees apply when a vehicle is towed because the driver of the vehicle was unlicensed or their driving privilege was suspended or revoked, the vehicle was impounded as evidence in a crime, or the driver was arrested and the towing of the vehicle was authorized by the Vehicle Code.



COMMUNITY SERVICES AWARD NOMINATION COMMITTEE MEMBER

The Council appointed Mindy Flory to the 2002 Community Service Award Nominating Committee.

BALL FIELD GROOMING EQUIPMENT PURCHASE

Council approved the purchase of two ball field grooming vehicles.

SPRING LAKE SPECIFIC PLAN AGRICULTURAL LAND MITIGATION PROGRAM AND PERMANENT URBAN LIMIT LINE STUDY

Council received a report and directed staff to report back on the work schedules for the Spring Lake Specific Plan Agricultural Land Mitigation Program and Permanent Urban Limit Line Study.

RESIGNATION OF ANGIE RODDAN FROM HISTORICAL PRESERVATION COMMISSION

Council accepted the resignation of Angie Roddan from the Historical Preservation Commission, effective immediately.

HOMELESS COORDINATOR REPORT FOR DECEMBER 2001

Council received the report from the Homeless Coordinator for the Month of December, 2001.

CITY LIBRARY DRAINAGE REPAIR PROJECT NO. 97-31

Council accepted the City Library Drainage Repair Project No. 97-31 as complete and directed the City Clerk to file a Notice of Completion.

CITIES/COUNTY JOINT MEETING - JANUARY 31, 2002

Council called a joint Special Meeting with the Cities of Davis, West Sacramento and Winters and the County of Yolo for January 31, 2002 at 7:00



p.m. at the Yolo County Administration Building Atrium Training Room to discuss governmental fiscal issues.

ITEM REMOVED FROM CONSENT CALENDAR

EXTENSION TO CHARTER CABLE COMMUNICATION TELEVISION FRANCHISE AGREEMENT

Council Member Peart said that negotiations are going well on the new Franchise Agreement with Charter Cable Communication Television. Assistant City Manager Marler said this extension is for the negotiation period only and the final agreement should be coming to Council in February.

On a motion by Council Member Peart, seconded by Council Member Dote and carried by unanimous vote, the Council authorized the City Manager to approve an extension to the existing Cable Television Franchise Agreement with Charter Communications for approximately 45 days.

REDEVELOPMENT AGENCY

None.

REPORTS OF THE CITY MANAGER:

REGULAR CALENDAR:

DOWNTOWN PLANNING EFFORTS, POLICE STATION AND COMMUNITY/SENIOR CENTER

Community Development Director Steve Harris indicated that the process is on schedule and several meetings have been held. Two public workshops have were held on the Downtown Specific Plan and Gateway Revitalization Project. Meetings have also been held on the Senior/ Community Center Project and future meetings are scheduled. The Police Station Construction Project is moving forward with a Request of Proposals package presently under staff review. Mayor Borchard indicated he received a letter from Regan Overholdt on the Commission on Aging indicating concerns about the lack of progress on the Senior/Community Center Project. Parks, Recreation and Community Services Director Agonia stated there has been a meeting with the Commission on this



issue. There has not been a site selected as yet and they are continuing to meet. Council Member Monroe urged that all communications regarding this project consistently indicate this is a Senior/ Community Center project. The schedule originally set has been difficult to meet. Council Member Dote said that projects will begin as money is collected.

SPECIAL SESSION/CLOSED SESSION

At 8:15, Mayor Borchard adjourned the Regular Meeting of the Council and convened a Special Session/Closed Session. The purpose of this Closed Session was to hold a Conference with Legal Counsel regarding anticipated litigation, significant exposure to litigation pursuant to Subdivision (b) of Section 54956.9, four cases.

REGULAR SESSION

At 8:40 p.m., Mayor Borchard reconvened the Regular Session and announced that Council had met in Closed Session for the purpose of holding a conference with Legal Counsel regarding anticipated litigation, significant exposure to litigation and received a report.

REPORTS OF THE CITY MANAGER (continued)

REGULAR CALENDAR

RESOLUTION 4335 - MANUFACTURED HOMES INITIAL REGISTRATION FEE

Assistant City Manager Marler advised Council that the Ordinance establishing Mobile Home Space Rent Control applies to all mobile home parks in the City. The seven Member Manufactured Homes Fair Practices Commission (MHFPC) has been working very diligently on developing the required regulations, registration processes and forms and implementation of the Ordinance. All parks are to be registered not later than January 30th. The Ordinance is specific there will be no cost to the City to administer. The park owners are to pay a fee that will defray any cost to the City to administer the Ordinance. These costs are significant in the start-up phase due to the extensive amount of time dedicated to drafting the associated rules and regulations. The Commission is recommending an initial \$100 registration fee to offset the costs expected to reach \$61,800. To date, the costs have reached \$37,600 with significant work left to be completed. The \$100 registration fee



has been determined by utilizing the total number of spaces, 615 as a base compared to the projected \$61,800 total start-up costs.

The Commission discussed options to reduce that initial fee in that (1) setting a registration fee year from February 1st through January 31st of each year which would require the City to carry the cost and could have some mobile home spaces subsidizing others, (2) consider a three year "smoothing" by estimating the fees over a three year period and dividing. Once again, the City budget would be impacted, especially should any of the 615 spaces become exempt in future years.

Bill Marcus, Chairperson of the MHFPC said the Commission has been working very hard on the start-up processes. They are adamant that the Ordinance states the City shall recover any and all costs in the implementation and administration of the Ordinance. The Commission minority view is to spread the costs at \$100-\$77-\$77, \$79-\$79-\$77, or \$60-\$77-\$77 in an effort to bring the initial cost down. Council Member Peart asked Mr. Marcus if he felt the Ordinance was flawed and he said he felt there are some implementation issues that are inconsistent in the Ordinance. One is the Consumer Price Index, another, Leisureville, and even though it is clear in many areas, it is not detailed enough in others. The Ordinance is similar to other Cities but the model Ordinance was changed.

Council Member Dote asked what would happen if the number of spaces changed. Mr. Marcus said the cost would go up for the other spaces. The remaining spaces would have to pay the difference. Mayor Borchard asked if he was surprised with the magnitude of the challenge before the Commission and Mr. Marcus stated that none of the Members felt it would be this difficult. Vice Mayor Flory asked if deferring the cost would add to the overall figures and Assistant City Manager Marler said the Commission had not discussed deferral but if they spread it over three years, the same people would pay unless any were removed, and those remaining would have to pick up the costs for those prior years. To take a three year average and divide it out then some spaces become exempt, those remaining must pay and costs would go up conversely.

Council Member Dote said if there were "clean up" legislation, what kind of work load would it create and Mr. Marcus said the language would probably not cause increases in workload.

A motion was made by Council Member Peart, seconded by Council Member Dote to adopt Resolution 4335, "A Resolution of the City Council of the



City of Woodland Establishing the Initial Manufactured Homes Space Rent Control Registration Fee”, at \$100 per space. Discussion followed.

Gayle Madsen, Property Manager of Leisureville stated they had obtained an Attorney and believe their Association is exempt from the Ordinance because it is a resident-owned park. They also have an agreement with the City of Woodland Community Development Block Grant and HOME which have maintained them as affordable and a non-profit. She will follow-up in writing on their assumptions. Vice Mayor Flory said the City worked very closely with Leisureville in the past and have given funding to them. He does not believe Leisureville should be part of the Ordinance as well. The Ordinance came about because of a citizen-initiated process. The City must now administer the law.

Council Member Peart said the only thing the City can do is to honor the Ordinance. He feels that possibly a cleanup Ordinance would clarify the issue of Leisureville. Until that time, we must administer to the language in the Ordinance. Council Member Dote is concerned about placing the fees on the remaining parks but the law is specific and cannot be changed unless the voters approve. The City is not in a position to absorb the administration costs.

Council Member Monroe said it was his understanding that Leisureville was exempt. He recommended that money be refunded to them at the time the law should be changed. Mayor Borchard said he had always been under the assumption that all parks would be affected. The costs must be covered by some entity besides the City.

Kenneth Wilbanks of Leisureville said they are an Association and this is a rent control ordinance. They contribute to their own budget.

Assistant City Manager Marler said the Commission Attorney had met with the representative from Leisureville on January 10th. In our reading of the Ordinance they have not been able to find any language to exempt them. The Ordinance proposed by the City did have language to exclude. Council Member Monroe asked if it is determined at a later time they are exempt, could they then receive a refund. City Attorney Siprelle said if it is determined they are exempt, the rules and regulations could stipulate a refund. Council Member Peart said if we refund the money to Leisureville should they be exempt, the money will need to be collected from elsewhere. City Attorney Siprelle said the Commission could set a time period to submit the documents.

Upon calling for the motion made by Council Member Peart, the motion failed.



Commission Attorney Andrew Pugno does not feel there is a great risk that Leisureville would suggest they pay part of the fee and debate the exemption at a later time. There is also the issue of Community Housing Opportunity Corporation possible exemption, which would remove ½ of the spaces from the source funding. Leisureville needs a legal basis for an exemption and they have not provided information to so indicate as yet. There are five spaces at Leisureville that are not part of the Association and would be required to submit registration fees.

Council Member Dote asked if a revised bill could be issued. Assistant City Manager Marler said a fee can be approved and if it is determined that Leisureville is not exempt, the Council could then lower the fees. Council Member Peart said we have a Commission that has made a strong recommendation at \$100.

On a motion by Vice Mayor Flory, seconded by Council Member Monroe and carried by unanimous vote, Council adopted an amended Resolution 4335, "A Resolution of the City Council of the City of Woodland Establishing the Initial Manufactured Homes Space Rent Control Registration Fee", at \$50 per space per year amortized over a three year period to cover startup costs.

ADJUSTMENTS TO THE AGENDA

Council placed Agenda items as following to be considered after the Public Hearing.

REVISED PROJECT PROGRAMMING SUMMARY SHEET FOR PROJECT 98-47, FIRM/FLOOD STUDY

MOSQUITO VECTOR CONTROL BOARD ALTERNATE MEMBER

EXTENSION TO PEYSER ASSOCIATES, INC. CONTRACT AND DESIGNATE COUNCIL REPRESENTATIVE AS PART OF CITY DELEGATION TO WASHINGTON, D. C.

Council deferred the following item to a subsequent Council meeting:

MODIFY THE WEST MAIN STREET AND COUNTY ROAD 98 WELCOME TO WOODLAND ENTRYWAY SIGN



PUBLIC HEARINGS

HOME DEPOT PROJECT APPEAL

Contract Planner Heidi Tschudin briefed the Council on the project, the Planning Commission decision and stated there are no grounds for the appeal. The property owners to the South of County Fair Mall had been negotiating with Home Depot regarding the property and could not reach agreement. Therefore, Home Depot negotiated purchase of other property and came to an agreement to locate on the second site. The Appellants' Attorney subsequently filed the appeal with no stated grounds. Planner Tschudin directed Council to the Staff Report materials and Exhibits: Appeal letter, minutes from the December 20, 2001 Planning Commission Hearing, Final Adopted Findings of Fact and Conditions of Approval, Final Adopted Mitigation Monitoring Plan, letter received from proponents and opponents of the construction, Negative Declaration and various appendices. The interest in the project began in November of 2000 with the application filing in July, 2001. Home Depot had investigated a number of sites of interest prior to selecting the East Main Street site.

Vice Mayor Flory asked to address Attachment 4, Page 9, Item 71 following the Public Hearing.

At 10:08, Mayor Borchard opened the Public Hearing.

Kent Calfee, Attorney for Paul Prudler and John Sievers, owners of the property South of County Fair Mall, stated this Hearing was requested *duo novo* and is not related to any specific issue, but on the entire decision of the Council based on the Code. They object to the location of the project site due to lack of an appropriate EIR and inconsistencies with the General Plan currently in effect. The EIR analyses were based on an absorption assumption and this project is contrary to those assumptions. All of the commercial use would be on commercial ground and all industrial uses would be absorbed on industrially zoned ground. This project takes retail and puts it on industrial ground. There is a General Plan Policy that talks of specifically avoiding an oversupply of commercially zoned ground. Some commercial uses are permitted but must comply with commercial development policies of the plan. Consistency must be found, based upon substantial evidence, that those policies have been met. The City must minimize any adverse impact on the Downtown or the East Street Corridor. The Policy says the City shall promote expansion of County Fair Mall to the South. The General Plan requires that when retail comes to the City it



should go into the East Street Corridor, generally, and to expand the Mall, specifically. Home Depot has chosen their East Main Street site due to the proximity to the freeway. The General Plan said that because of the pressures of locating near the freeway, they should go to the East Street Corridor first. The EIR is inadequate based on concepts contrary to the project and violates the General Plan.

Mr. Calfee said his clients have a 40 acre site and Home Depot was not interested in 40 acres. They needed a developer who could develop the 40 acres to accommodate Home Depot. Home Depot and the Developer did not come to an agreement. Vice Mayor Flory said he has not seen Mr. Calfee's clients come forward with any type of proposal for their property. Mr. Calfee said the original developer for the land was trying to move forward on some projects on that site. He said that once Home Depot moved to the other site, the County Fair Mall feels the site is no longer marketable.

Council Member Peart said Home Depot was directed to Mr. Calfee's clients in June and one of the owners said he was working with a developer from Florida. He does not feel it is a City problem if the property owners and developers could not come to agreement. The Council cannot dictate where Home Depot locates. Mr. Calfee stated the Mall Managers feel they need more traffic adjacent to them to help their profitability.

At 10:26, it was moved by Council Member Dote, seconded by Vice Mayor Flory and carried by unanimous vote to extend the Council meeting until 11:00.

Joy Cohan feels big box retailers diminish the historical feel of the City. She feels there are other sites within the City that would be better suited to the Home Depot Store. The downtown is a cultural resource and it has not been considered for as a possible location. She would like to see an EIR specifically for this project. She read a statement from David Wilkinson who could not attend the meeting this evening. He feels an EIR is necessary as the Negative Declaration does not adequately address the project. The physical impacts on the downtown are not addressed. Physical deterioration of the downtown will occur due to removal of retail dollars. It is estimated that in excess of \$800,000 in sales would be diverted to Home Depot from downtown. There has been no effort to consider the vacated K-Mart Store as a possible site or other infill sites. EIR does not adequately address air quality and traffic impacts.



Michael Russow said the location was selected because the original site was rejected due to several problems, including the price. He feels the East Main Street site is the best site because Gibson Road traffic is already a problem and will worsen when the Spring Lake Plan and the new high school go forward. The downtown cannot house the Home Depot and parking is not available. Calling for an EIR is without merit as there are already retail outlets in that area. East Street would need to be modified to accommodate the increased traffic.

Al Eby feels there needs to be more discussion on this project. He cited some articles he found on this type of business coming into smaller communities. He feels Cranstons would have survived with some changes. Studies indicate that these big box businesses cause smaller, locally owned businesses to close.

Rick Manners, Site Development Coordinator for Home Depot, said the project began two years ago. A study was undertaken by Home Depot indicating that local tax dollars were going outside of the City to other Home Depot stores and this would be a good location for a new unit. Tax revenues are being spent elsewhere, the Store will provide several hundred jobs, and City fees in excess of \$2 million will be collected. City Staff have encouraged and guided them to develop here. They have been very cooperative with the City on the conditions required. They would like to receive approval to change the allowed commercial uses and add craft and hobby supplies, sporting goods, fabric supplies, party supplies, picture framing, and mailing and packaging services. They also would like clarification on an easement for an interim driveway to Staples. They would like dedication of two water lines and on mitigation monitoring, clarification is needed on who is installing. There are 450 support cards and 50 letters to support the project.

Vice Mayor Flory asked the City Attorney if the list he is presenting needs to be acted upon in the Appeal. City Attorney said the Council has the discretion to consider changes and requests to the conditions if they desire. Mr. Manners feels that all processes have been followed and asked for denial of the Appeal.

Council Member Monroe asked if other uses mean what Home Depot will sell and Mr. Manners said these are not in Home Depot but would be additional stores on the site. Thirty-seven percent of the customers for this new store would come from Davis, 7% will return from the store on Truxel in Sacramento.

Anna Shimko of Cassidy, Shimko and Dawson represents Home Depot. The letter requesting alterations was first seen by staff late last week and will



come forward after they have had additional review time. Issues brought forward by the Appellant are General Plan inconsistencies and requires this site be developed as mixed industrial and commercial, which means industrially serving commercial uses. She is hearing this is not consistent with the General Plan, but in actuality feels it is due to Home Depot selecting a site other than the Prudler/ Sievers property.

At 10:58, it was moved by Council Member Dote, seconded by Council Member Peart and carried by unanimous vote to extend the Council meeting until 11:30.

Ms. Shimko said Mr. Calfee indicated the EIR cannot rely on the General Plan EIR. She believes that not accurate as the General Plan does intend and direct the commercial development occur on this property, up to 80%. The economic impact on other stores has gotten the most attention. The California Environmental Quality Act is very clear that economic and social impacts shall not be treated as significant impacts on the environment. The focus shall be on the physical changes. This is directly from CEQA guidelines. An EIR is only required if there is substantial evidence in light of the whole record that the project may have a significant impact on the environment. Unsubstantiated opinion is not evidence.

Amy Herman of the Segway Group addressed comments on the maximum impact stated at \$844,000. The real impact would probably be half or less of that figure. The analytical approach assumed all of the sales were competitive with the Home Depot. The stores addressed were, for example, a furniture store that also handles flooring. All of the sales for the that store were included in the study. Vice Mayor Flory said if the other uses presented by Mr. Manners were allowed in the project, there would definitely be a great impact on the downtown community. Ms. Herman said they did not look at the requested additional uses as presented this evening in their initial analysis. Mayor Borchard said when WalMart came in there was a forecasted impact of 3,000 square feet less of retail space in the downtown and it would affect the Mall sales by 7%. He asked if she had any corresponding information as a comparison and Ms. Herman indicated she did not. Ms Herman said the Planning Commission was concerned about the retailers in the downtown and that is where they directed their study.

At 11:14, Mayor Borchard closed the Public Hearing.



Vice Mayor Flory asked if the items presented had been discussed at the Planning Commission and were the categories for allowed commercial uses those presently in the Code. Planner Tschudin said the Planning Commission has not approved any of these items as they came before the Council after their decision. Council Member Flory understands why Home Depot wants to locate on East Main Street but because the property owners South of the Mall did not get a project together is not a reason to preclude them from going forward. Vice Mayor Flory referred to his previous request on the Staff Report, Attachment Four, Page 9, Item 71, "Commencing Spring of 2003, the applicant shall provide \$25,000 per year for three years to be used for economic development programs and/or specialized personnel to assist downtown and East Street businesses with business development and expansion". He would like an increased amount committed to be utilized for the in the Redevelopment Area and suggested \$50,000 per year for five years. This would be a public/private partnership to help with the impact of the Home Depot development. Council Member Peart feels this request is inappropriate. The additional development on the Home Depot site would bring additional income that would offset the original \$25,000 amount. Vice Mayor Flory was adamant that the downtown area needs additional support from the new development.

Council Member Dote asked Planner Tschudin if she agreed with the analysis of eliminating the EIR and Planner Tschudin indicated she is in agreement with the General Plan consistency. The current zoning is industrial. Council Member Dote asked about the infrastructure cost looking at the property South of the Mall versus this property. Senior Civil Engineer Greg Moutinho said the Gibson trunk is impacted but they do not face that same issue on the East Main Street property.

At 11:28, it was moved by Council Member Dote, seconded by Vice Mayor Flory and carried by unanimous vote to extend the Council meeting until 11:45.

Planner Tschudin said one issue is that of physical impacts on the downtown as a cultural resource. In CEQA it states a project that may have an effect on a historical resource may have a substantial impact on the environment. This means physical demolition, destruction, relocation, or alteration of the resource in its immediate surroundings such that the significance of the resource would be materially impaired, which relate primarily to changing physical appearance. Economic and social changes as a result of the project shall not be treated as significant effects on the environment. Public controversy over the project shall not require an EIR if there is no substantial



evidence that the project may have a significant effect on the environment. Traffic and Air Quality impacts are addressed as the General Plan took those into effect, but a detailed traffic analysis was also done for the project. It included mitigations that have been included as conditions of approval.

Council Member Dote said on Item 71 the Planning Commission took the amount of \$125,000 over 25 years. The applicant has come through many redesigns and she recommended \$50,000 for three years. Vice Mayor Flory agreed. This is not for the Downtown Coordinator. Planner Tschudin said WalMart's funding would end in 2003. City Manager Kirkwood said Council could dedicate this money through Council action.

Planner Tschudin said the language would read, "commencing with Certificate of Occupancy, the applicant shall provide \$50,000 per year for three years to be used for economic development programs and/or specialized personnel to assist within the Redevelopment Area with business development and expansion". Mr. Manners said Council is sending the wrong message to the business community. They may be able to recoup their money, but WalMart has had several pads out there for years with no interest and it will impact them the same way. They will accept the \$125,000 payable in two years. Mayor Borchard said Council will take action and Home Depot will then need to decide if they choose to go forward.

On a motion by Vice Mayor Flory, seconded by Council Member Dote and carried, the Council denied the appeal and under item 71, attachment 4, page 9, altered the language to state, "commencing with Certificate of Occupancy, the applicant shall provide \$50,000 per year for three years to be used for economic development programs and/or specialized personnel to assist within the Redevelopment Area with business development and expansion". Council Member Peart voted to the negative.

At 11:45, a motion was made by Council Member Dote, seconded by Vice Mayor Flory and carried by unanimous vote to extend the Council meeting until 12:00.

REPORTS OF THE CITY MANAGER (continued)

REGULAR CALENDAR



REVISED PROJECT PROGRAMMING SUMMARY SHEET FOR PROJECT 98-47,
FIRM/FLOOD STUDY

Public Works Director Wegener stated the FIRM/Flood Study costs have increased due to the cost escalation of the Feasibility Study and the inability of the State to fund their share. The primary reason is for consideration of the additional variations of the Setback Levee flood protection versus the Barrier. Council Member Peart said the State shorted us by \$375,000 they had committed. Special Legislation would be required to allow us to take this off on the construction side. Council Member Dote asked if this was contingency and Director Wegener stated to the affirmative. She asked if the State routinely reimburses and he said typically they do not. Council Member Peart asked if the State eliminated it from the project and Director Wegener said the Governor had removed the funding. It could go into the budget until approved in July. It would be easier to work with our Legislators and encourage them to put it back into the budget.

On a motion by Council Member Dote, seconded by Council Member Monroe and carried by unanimous vote, the Council approved the revised Project Programming Summary Sheet for Project 98-47, FIRM/Flood Study as submitted.

ALTERNATE MEMBER TO THE SACRAMENTO-YOLO MOSQUITO VECTOR
CONTROL BOARD

Council Member Peart said Mrs. Jean Walker had indicated her willingness and desire to serve as an alternate representative to the Sacramento-Yolo Mosquito and Vector Control District Board. She had been attending all of the meetings with her husband over the past eighteen months due to his illness.

On a motion by Council Member Peart, seconded by Vice Mayor Flory and carried by unanimous vote, the Council appointed Mrs. Jean Walker as an alternate to the Sacramento-Yolo Mosquito and Vector Control District Board.



EXTENSION OF PEYSER ASSOCIATES, INC. CONTRACT AND DESIGNATION OF
A COUNCIL REPRESENTATIVE AS PART OF CITY DELEGATION TO
WASHINGTON, D. C.

City Manager Kirkwood advised Council of the need to extend the Contract for Legislative Advocacy Services. He also advised Council of the following items which will be on the 2002 Congressional Legislative Agenda: Energy and Water Development Appropriations; Veterans' Administration, Housing and Urban Development and Independent Agency Appropriations; Commerce, Justice and State Appropriations; Transportation Appropriations; Fire Protection; and Brownfields. These issues amount to \$12.8 million.

On a motion by Council Member Peart, seconded by Council Member Dote and carried by unanimous vote, the Council authorized the City Manager to execute an extension to Peyer Associates', Inc., contract through January of 2003 at a cost not to exceed \$48,000; designated Vice Mayor Flory and Council Member Peart as Council representatives as a part of the City delegation to Washington, D.C. along with City Manager Kirkwood and Public Works Director Wegener, to address further advocate concerns; reaffirmed the Congressional Legislative Agenda as presented.

ORDINANCE

None.

ADJOURNMENT

Mayor Borchard adjourned the regular meeting of the Council at 12:03 a.m.

Sue Vannucci, City Clerk