

MINUTES OF THE DAVIS CITY COUNCIL  
Meetings of February 16, 2016

The City Council of the City of Davis met in special meeting and regular session beginning at 5:37 p.m. in the Community Chambers, 23 Russell Boulevard, Davis, California. The meetings were called to order by Mayor Dan Wolk.

Roll Call:

Councilmembers Present: Robb Davis, Lucas Frerichs, Brett Lee, Rochelle Swanson, Dan Wolk

Councilmembers Absent: None

Other Officers Present: City Manager Dirk Brazil, City Attorney Harriet Steiner, City Clerk Zoe Mirabile

Approval of Agenda-Special Meeting D. Wolk moved, seconded by R. Davis, to approve the agenda. Motion passed unanimously.

City Council Workshop: Sustainability Manager Mitch Sears: Summarized draft Community Choice Energy (CCE) Technical Study and the Community Choice Energy Advisory Committee (CCEAC) recommendation to establish a Davis+Yolo CCE.

Community Choice Energy Draft Technical Study and CCEAC Recommendation

Public comments:

- Judy Moores and Lynn Nittler, Cool Davis: Support CCE program—community control of energy sources, achieve city’s climate action goals. Support including Yolo County unincorporated areas.
- Elizabeth Lasensky, Yolo Move On: Gives people an option for greener energy sources who may not have the option of installing solar.
- Steve Short, Integrated Comfort Incorporated: Support CCE, and including Yolo County. Should be priority to manage programs and focus on energy efficiency.
- Olaf Bistro: Support CCE, but should consider whether cost savings are available if proceed with community choice aggregation (CCA) instead—overhead or energy cost?

Council comments included:

B. Lee: Economies of scale when purchasing in energy markets. If Davis/Yolo option not chosen, will need further analysis and high level of scrutiny.

R. Davis: Marin Clean Energy (MCE)—Willing to negotiate exit option? Principles/processes guiding local projects? Ability to craft local conservation programs? Drop dead date? Advantages/disadvantages of being in different climatic zone from rest of cities? Davis/Yolo—How quickly can JPA with County be established? Means to create better protection in enterprise model? (firewall

general fund) Experience with local guarantees? How does JPA allow to hedge risks? Why does CCEAC believe risks for non-local options has potential to increase over time?

R. Swanson: Check in with Sonoma. Has anything changed? Request information on examples of Prop 218 votes. What was voted on and what were results? Need detail in contract. Negotiations—Need specific examples. Options for out clauses. Rates/options—how long locked in? Need detail on JPA—Risk/benefit analysis of Davis only and Davis/Yolo.

L. Frerichs: Request information on off ramp from MCE. Options for local conservation programs. Detail regarding potential interest from other Yolo jurisdictions.

D. Wolk: Request more information on energy efficiency vs. renewables

Special meeting adjourned 6:29 p.m.

Approval of  
Agenda

Mayor for the Day, Zach Agnew, called the regular meeting to order at 6:39 p.m.

R. Swanson moved, seconded by R. Davis, to approve the agenda. Motion passed unanimously.

Ceremonial  
Presentations

Ceremonial Presentations:

1. Proclamation on Being a Kid in Davis – Mayor for the Day Zach Agnew
2. Honorary Citizen Certificate – Sang-ju, Korea Exchange Employee Tina Kim. Presented by Mayor Wolk.
3. 2016 Golden Heart Awards – Recognizing Outstanding Youth in the Community: Community Service: Genevieve “Vivi” Rose Kirsch. Personal Challenge: Ethan Patterson

City Council recessed at 6:51 p.m. for a reception and reconvened at 7:07 p.m.

City Manager  
Announcements

None

Public Com-  
ments

- Lynn Nittler: Commend City Council for recognizing threat to public safety and health posed by oil trains. Benecia Valero project EIR and project have been denied, acknowledged significant and adverse impacts.
- Elizabeth Lassensky, Yolo MoveOn and Yolano Climate Action: Hearings in San Luis Obispo on oil trains, 390 people speakers. Thank city for letter in opposition. Issue still being heard.
- John Li: Interviewed Police Chief Darren Pytel on Davis Community Television. Also, propose Davis become a charter city.
- Alan Hirsch: request staff provide all presentations to commissions prior to meetings, and provide equal time to public commenters as to presenters.

- David Greenwald: Davis Vanguard 10<sup>th</sup> Anniversary. Forum to be held February 17 on future of growth in Davis.
- Nancy Price: NFLCIO, Sierra Club, and AARP announced that more than 100 no Trans-Pacific Partnership (TTP) resolutions zones have been passed. Grassroots campaign. [www.tppfreezones.org](http://www.tppfreezones.org) Garamendi is holding town hall meetings at Senior Center this week.
- Alan Miller: Benecia Oil Train project—Valero will likely appeal decision; threat not yet averted. Other flammable and hazardous material still transported by rail through Davis.
- Bob Hinkle: Request Council schedule Nishi project on June ballot. Let citizens decide on proposed infill project next to downtown and university.

Consent Calendar

Richards Blvd/Olive Drive Area Circulation Study and Capital Improvement Feasibility Analysis

1. Approved Budget Adjustment #78 (\$250,000)- allocating Gas Tax and Transportation Non-TDA funding
2. Approved Resolution No. 16-011 - Authorizing the City Manager to Execute Task Order No. 10 to the Agreement with Mark Thomas & Company for the Richards Boulevard/Olive Drive Area Circulation Study and Capital Improvement Feasibility Analysis

Authorizing Agents for Obtaining and Administering Low Carbon Transit Operations Program Funding

Approved Resolution No. 16-012 - Authorizing the City Manager and the Unitrans General Manager to Act as Authorizing Agents on Behalf of the City of Davis for Low Carbon Transit Operations Program (LCTOP) Funding

Sports Complex Task Force Update

Received update

2015/16 Second Quarter Administratively Approved Budget Adjustments

Informational

Commission/Board Minutes (informational):

1. Human Relations Commission Meetings of September 24, October 22 and December 17, 2015
2. Social Services Commission Meetings of October 19 and November 16, 2015

Informational

L. Frerichs moved, seconded by R. Davis, to approve the consent calendar as listed above. Motion passed unanimously.

Public Hearing: Changes to Certain Fines for Parking Violations

Mayor Wolk opened and continued the following public hearing to February 23, 2016: Consider Changes to Certain Fines for the Provision of General Parking Violations, Disabled Parking Violations and Blocking Driveway Citations

tions/Citations

Continued from  
January 12 &  
19, 2016:

Nishi Gateway–  
Planning Appli-  
cation #14-57:  
General Plan  
Amendment  
#08-14, Rezon-  
ing/Preliminary  
Planned Devel-  
opment #06-14,  
Annexation #2-  
14

Assistant City Manager Mike Webb: Summarized baseline project features, focusing on revisions since last meeting.

Andy Plescia, A Plescia Company, consultant: Implementation of services district would have a minimal effect on market.

Jeff Miller and Dan Carson, Finance and Budget Commission: Staff has addressed main concerns of Commission. Should assume at least half of taxes are renewed. Interested in transparency and accountability.

Tim Ruff, Nishi Gateway: CEQA process and public hearings have given public opportunity to provide input.

Chris Sodderquist, applicant team: Developer has offered to participate in Community Choice Energy program; 100% of energy can be purchased in community.

Public comments:

- Alan Pryor: Traffic study should be reviewed by independent expert, requirement for LEED gold should be in baseline features along with greenhouse gas mitigation for minimum 10,000 metric tons of gas per year. Postpone to November election.
- Tom Cahill: Oppose residential development at Nishi due to air quality impacts from proximity to freeway. Should be solely a research innovation center.
- Patrick Huber: Putah Creek Parkway and access road from Olive Drive are critical to full connectivity of site, need to include in baseline features.
- Patrick: Need more housing, especially for students. Many commute from out of area.
- Thoma Thurnhill: Bicycle advocate. Davis has added infill while keeping a compact footprint. Support June vote.
- Michael Bartolic: Support November election, better turnout than June.
- Joshua Chapman, Davis Downtown: Support June ballot.
- Alan Hirsch: Nishi working group has met for 14 months. Buildings should be LEED platinum, specify 1,500 parking spaces on street parking and limit traffic on Richards Blvd. Need to commit to reduce carbon footprint, establish mitigation fund.
- Jim Gray: Support June ballot. Need for additional student housing and facilities for research development and office spaces. Less than 6.5% vacancy on commercial spaces in town.
- Chris Granger, Cool Davis: Still don't have a mechanism to value greenhouse gas emission reductions.
- Katie: Support Nishi project. Many jobs at Nishi will be entry level for

graduating students. 9 of 13 start-ups companies established in 2015 are no longer in Davis.

- Matt Williams: Finance and Budget Commission recommends baseline features and Development Agreement include: All public infrastructure financed without city funding; specify triggers for infrastructure. Basic concepts on how to spend new revenues, following precepts for accountability and transparency.
- Eileen Samitz: Project not ready, wait until November. Traffic impacts, air quality impacts that cannot be mitigated. Project will not provide substantial fiscal benefits, no affordable housing.
- Elaine Roberts-Musser: Projected net fiscal positive, need to diversify tax base. Entire region is watching Davis, need to send positive message that community welcomes businesses. Support Nishi on June ballot.
- Mario Solano: City and University need this project, sustainable development.
- Steve Wheeler: Trip cap needs to be described in detail. Possible to establish greenhouse gas mitigation, create precedent.

D. Wolk moved, seconded by R. Swanson, to approve the Nishi Gateway project and place the Nishi General Plan Amendment on the ballot for voter consideration under Measure J/R of the Municipal Code as follows:

1. Approve Resolution No. 16-013 - Adopting CEQA Findings of Fact; Adopting a Statement of Overriding Considerations; Adopting a Mitigation Monitoring Plan; and Certifying the Final Environmental Impact Report for the Nishi Gateway Project
2. Approve Resolution No. 16-014 - Amending the General Plan to Re-Designate the “Nishi” Property from Agriculture to University-Related Research Park, Make Edits to the University-Related Research Park and Agriculture Land Use Categories, and Establish the Baseline Project Features Subject to Approval of the Voters
3. Introduce Ordinance Amending Section 40.01.090 of Chapter 40 of the Davis Municipal Code By Rezoning the Nishi Property (APN #036-170-018) Located Southeast of the Union Pacific Railroad (UPRR) Tracks and University of California Davis Campus, Southwest of Putah Creek, and North/Northwest of Interstate 80 (I-80), of Approximately 46.9± Acres, to Planned Development (PD) #6-14 Upon Annexation to the City of Davis as Outlined in Section 40.01.110 of Chapter 40
4. Introduce Ordinance Amending the Zoning of the Gateway/Olive Drive Specific Plan Regarding Commercial Service Uses in the West Olive Drive Commercial Service Area (Nishi Gateway Project)
5. Introduce Ordinance Approving an Agreement By and Between the City of Davis and Nishi Gateway, LLC, Relating to the Development of the Property Commonly Known as the Nishi Property
6. Approve Resolution No. 16-015 - Calling a Special Election to Be Held in the City on Tuesday, June 7, 2016, for Submission to the Voters of a Measure Amending the General Plan to Change the Land Use Designations

for the Nishi Property and Establishing the Nishi Baseline Project Features and Directing the City Clerk to Specify the Deadline for Submission of Arguments For and Against the Measure

B. Lee proposed a friendly amendment: Size of green buffer: At least 50 ft. green buffer between freeway and residential housing

L. Frerichs proposed: Consider buffer in open space area along western edge of property. Stacked on western end.

Accepted by mover and second.

Staff clarification:

K. Hess: Mitigation measure calls for tree canopy throughout the site. Language could encourage installing trees on Caltrans right of way to the extent feasible.

M. Webb: Language for Development Agreement and Baseline Project Features: Concentration of trees on western edge

B. Lee proposed a friendly amendment: Instead of \$1 million for affordable housing and \$200,000 for on-site arts, carbon offset and downtown parking, allocate \$500,000 for affordable housing and \$700,000 for other uses to include air pollution mitigation. Not accepted by mover and second.

R. Davis proposed a friendly amendment: Achieve LEED silver of buildings; gold as goal.

City Council recessed at 9:22 p.m. and reconvened at 9:34 p.m.

R. Davis friendly amendment accepted by mover and second.

M. Webb clarification of friendly amendments/revisions:

- Staff recommended edits presented during item are included in staff recommendation.
- Green buffer: in a concentrated area of trees at the western edge of the site
- Commitment to achieving LEED silver level with a goal of achieving gold or higher level for buildings.
- City and developer shall work with Caltrans to install trees on right of way to extent feasible

R. Davis proposed a friendly amendment: Remove fifth priority-other demonstrated method of reducing emissions-from Environmental Impact Report mitigation measure and table of mitigation monitoring. Accepted by mover and second.

Motion passed unanimously.

City Council recessed at 10:01 p.m. and reconvened at 10:07 p.m.

City Council Principles for Nishi Tax Share Agreement

Assistant City Manager Mike Webb: Summarized principles

Public comment:

- Elaine Roberts-Musser: Request justification for proposed tax split. County services versus City; make clear to voters.

R. Swanson moved, seconded by L. Frerichs, as follows:

1. Approve Resolution No. 16-015A - Adopting City Council Principles for the Nishi Property Tax-Sharing Agreement
2. Direct staff to commence preliminary analysis in preparation for tax share negotiations with Yolo County related to the Nishi proposal
3. Direct staff to initiate formal tax share negotiations with Yolo County following an affirmative vote of the Davis electorate on the Nishi project

Motion passed unanimously.

Ordinance to Increase Transient Occupancy Tax from 10% to 12% and Actions to Call and Consolidate General Municipal and Special Elections on June 7, 2016 with the Statewide Primary

L. Frerichs moved seconded by R. Swanson, as follows:

1. Adopt Ordinance No. 2468 - Amending Portions of Article 15.05 of the Davis Municipal Code to Increase the City's Transient Occupancy Tax Rate From 10 Percent to 12 Percent, Address Online Travel Company and Other Third Party Bookings, and Make Other Conforming Changes Subject to Approval of a Majority of the Electors Voting on the Tax Measure at the General Municipal Election to Be Held on Tuesday, June 7, 2016
2. Approve Resolution No. 16-016 - Calling Both a General Municipal Election for the Election of Three Council Members, and Calling a Special Election for the Purpose of Submitting a General Tax Measure Which Would (1) Increase the City's Transient Occupancy Tax Rate From 10 Percent to 12 Percent, and (2) Establish a Marijuana Business License Tax, to Be Held on Tuesday, June 7, 2016
3. Approve Resolution No. 16-017 - Requesting the Board of Supervisors of the County of Yolo to Consolidate a General Municipal Election and a Special Election to Be Held on June 7, 2016, With the Statewide Primary Election to Be Held on That Date Pursuant to §10403 of the Elections Code
4. Appoint Council Subcommittee of L. Frerichs and B. Lee to draft Argument in Favor and Rebuttal to Argument Against Measure for tax measure, and R. Davis and R. Swanson for Nishi measure.

Motion passed unanimously

Election of 2 City Council Members & Submission of Ballot Measures to the Davis Electorate

Nightclubs / Establishment of Entertainment Operating Permits

Police Chief Darren Pytel: Update on proposed permits, public process

Public comments:

- Kevin Wong, Sophias Tai Kitchen/Davis Bars and Restaurants Committee: Working closely with staff, support recommendations. Share community concerns with violent incidents that have occurred downtown. As a group, support drafting an ordinance to require operating permits with defined entertainment venues. Takes into consideration business models. Most equitable

solution to provide public safety without compromising autonomy. Understand status quo is no longer acceptable, request flexible and measured approach.

- Will Arnold: Hard closure is a bad idea from public safety standpoint. Support asking for and/or requiring training to respond to incidents.
- Alan Hirsch: Budget tight, nothing in recommendation about recouping cost.
- Stewart Savage, Davis Downtown: Support staff recommendation to draft ordinance. Entertainment venues are important to downtown. Need to ensure safety, should be fair, equitable and measured. Bar and restaurant owners are invested in making sure nightlife remains vibrant and fun for all.
- Elaine Roberts-Musser: Support recommendation. Concerned about proliferation of more bars; need to handle the bars we currently have.
- Mariah Kailah-Watson, ASUCD: Recently ran survey asking students how they felt about downtown—experience and safety. If close bars sooner, worried that means students will travel to other locations, drunk driving. Need better Tipsy Taxi, Safe Ride location downtown. Investment in lighting.
- Alan Miller: Support process and staff recommendation. Request staff also address issue of low frequency noise, powered subwoofers in downtown.

Council comments included:

B. Lee: Consider more restrictive operating conditions for new businesses. Need increased police patrol presence downtown. Consider additional fees for bars to cover cost. Need more cooperation with university on culture of drinking. Need late night venues that don't revolve around drinking. Room downtown for venues that are open later than 2am.

R. Swanson: Consider requirements to businesses that may be closing early. Checks as people are leaving—providing taxi services, etc. Shouldn't just allow to go to another venue and pass problem along. Lighting should be priority, safety issue. What cost to address lighting? Consider addressing safety of bathrooms. Encourage other night venues to come to town. Entertainment permit allows for different uses such as bowling?

R. Davis: University is looking into providing other late night activities. Should discuss how to support. Should provide monitoring info once a year, annual report. Address external issues of public drunkenness and urination. Support downtown restroom. Consider public private partnership. Would like more work on restrictions on Picnic Day.

R. Swanson: Should not include Picnic Day restrictions in ordinance

D. Wolk: Support sexual assault training, active bystander training.  
Police Chief Darren Pytel: Could place in condition of approvals

D. Wolk: Support working with Tipsy Taxi on establishing locations. Support lighting. Support downtown restroom.



Item Submitted by Councilmember (Lee): Request for Reconsideration of Marijuana Tax

B. Lee: Request City Council reconsider their decision of February 2, 2016 to not place a potential business license tax on marijuana sales on the June 2016 ballot. Council concurred.

R. Swanson moved, seconded by R. Davis, as follows:

1. Adopt Ordinance No. 2469 - Adding Section 19.04.100 to the Davis Municipal Code Related to Marijuana Business License Taxes Imposed for General Municipal Purposes, Subject to the Approval of a Majority of the Voters Voting at the General Municipal Election Held on June 7, 2016
2. Direct staff to include the Marijuana Tax Measure in the Resolutions Calling and Consolidating the June 2016 election
3. Appoint Council Subcommittee of L. Frerichs and B. Lee to draft Argument in Favor and Rebuttal to Argument Against Measure

B. Lee proposed to amend ordinance to include language—“but excludes dispensaries providing medical marijuana solely for medical purposes”

Public comment:

- Alan Hirsch: Support
- Alan Miller: People will use “medical marijuana” designation as a way to bypass paying tax without actually qualifying
- Will Arnold: Support. Exempting medical marijuana makes sense. Businesses will still want to open up recreational shop. Extinction will exist. Might be tougher to pass tax once businesses are in place

City Attorney Harriet Steiner clarify: ordinance language amendment—“but excludes dispensaries that solely provide medical marijuana”. Staff will amend the resolution calling election to include marijuana tax.

Motion passed unanimously.

City Council Brief Communications  
Long Range Calendar

AB1234 reporting—D. Wolk, B. Lee and R. Swanson attended a Chamber of Commerce dinner

D. Brazil: Parking continued to March 15. Wastewater rate study moved to April 5. Mace Ranch Innovation Center will be postponed from April 5.

D. Wolk: Interested in status of City/UCD fire merger. B. Lee and L. Frerichs support.

D. Brazil: Look at finances, shared services, and possible full merger.

Adjournment

Meeting was adjourned at 11:42 p.m.

Zoe S. Mirabile  
City Clerk