

MINUTES OF THE DAVIS CITY COUNCIL
Meeting of November 1, 2016

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

Roll Call: Councilmembers Present: Will Arnold, Brett Lee, Lucas Frerichs, Robb Davis

Councilmembers Absent: Rochelle Swanson

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

Approval of Agenda W. Arnold moved, seconded by L. Frerichs, to approve the agenda. Motion passed by the following vote:
AYES: Arnold, Lee, Frerichs, Davis
NOES: None
ABSENT: Swanson

Closed Session City Council convened a closed session pursuant to Government Code §54954.5 to discuss the following:
A. Conference with Legal Counsel — Existing Litigation: Supporters of Responsible Planning in Davis v. City of Davis et al, Yolo Superior Court Case No. PT15-1442
B. Conference with Real Property Negotiators:
Property: Mace Boulevard, unincorporated area of Solano County (APN 110-060-090)
Agency Negotiators: City Attorney Harriet Steiner, City Manager Dirk Brazil, Assistant City Manager Mike Webb, Community Development Administrator Katherine Hess, Property Management Coordinator Tracie Reynolds
Negotiating Parties: David Hansen, Cathryn Nordstrom, and Stanley Hansen
Under Negotiation: Price and terms of payment

City Council returned to open session at 6:30 p.m. with no reportable action.

City Manager Announcements D. Brazil: Greenbelt and parks lighting project occurring during month of November, change out lights for more energy efficient.

City Council Announcements None

Public Comments None

Consent Calendar

Downtown Business Improvement District (DBID) 2016 Report; Proposed Fiscal Year 2017-2018 Budget; and Intention to Levy and Collect an Assessment for FY 2017-2018

1. Accepted the 2016 DBID Annual Report including the FY 2017-2018 proposed budget and programs from the Davis Downtown (DD) business association, subject to any changes or modifications that may be made subsequent to a public hearing on the request to increase, levy and collect an annual assessment, which will be held on November 15, 2016
2. Approved Resolution No. 16-154 – Resolution of Intention to Levy and Collect the Business Improvement District Annual Assessment Fee for the Core Area Benefit Zone and Periphery Core Benefit Zone Pursuant to the Parking and Business Improvement Area Law of 1989 for the Downtown Business Improvement District for FY 2017-2018

Refinance of The Alhambra Apartments at 4500 Alhambra Drive
Approved Resolution No. 16-155 - Authorizing Refinance of and Subordination Agreement for The Alhambra Apartments at 4500 Alhambra Drive, maintaining the City's subordinate position in financing

Design and Construction Management of the Water Quality Improvement Project, CIP No. 8224

Approved Resolution No. 16-156 - Authorizing the City Manager to Execute Amendment #2 to the Agreement with Kennedy Jenks for Design and Construction Tasks for Water Quality Improvement Project, CIP No. 8224

Second Reading: Ordinance Amending the Davis Municipal Code to Add Chapter 16 to Be Entitled Community Choice Aggregation (Electricity) and Authorizing the Implementation of a Community Choice Aggregation Program
Adopted Ordinance No. 2487 (Introduced 10/25/2016)

Radio Replacement Project

Approved Budget Adjustment #33 (\$680,000) – transferring radio replacement funds into the Information Services budget for purchase of a new radio system

W. Arnold moved, seconded by L. Frerichs, to approve the consent calendar as listed above. Motion passed by the following vote:

AYES: Arnold, Lee, Frerichs, Davis

NOES: None

ABSENT: Swanson

Hotel Background Information – Changes in Supply, De-

Chief Innovation Officer Diane Parro: Economic benefits to adding hotel rooms. Consider timing of introducing new hotels to best position Davis to deal with increased demand.

Public comments:

mand Generators, Transient Occupancy Tax, and Potential Locations for Development

- Dan Carson, Finance & Budget Commission: Hotel projects can bring significant positive impacts. Each would generate \$1.9 million in one-time fiscal benefits as well as a couple hundred thousand each in transient occupancy tax (TOT).
- Elaine Roberts-Musser: City needs economic development to pay for city services. Voters seem disinclined to raise taxes or approve development on periphery. Only option left is infill development.
- Lina Layiktez, Director Conference & Event Services UCD: Additional hotels would benefit community in form of TOT, and support increase in community and UCD events, able to accommodate more visitors from out of town. Support both proposed hotel projects.
- Chris Yu: UCD is a great school. Hard for families to find a place to stay when touring school for prospective enrollment or visiting current students.
- Alan Humason, Yolo County Visitors Bureau: Tourism in California is a large industry. Davis occupancy routinely is over 80% and often sold out. Both hotel projects have a lot to offer.
- Matt Williams: Increase in market demand. Increase in UCD enrollment includes increase in parent and prospective student visit; 7% increase in UCD event facilities. Biggest impediment to filling event spaces on campus is having more hotel rooms for participants.
- Susan Kirby, Chamber of Commerce: Chamber supports hotel expansions. Support proposed Hyatt House and Marriott Residence Inn.
- Alan Pryor: Question whether occupancy numbers are accurate. Proposing to add 240 room to current 725 rooms in Davis, 33% increase. UCD students do not stay in extended stay hotel. Sports Park, Nishi, MRIC have not been built. Need to look carefully about what losses are to other communities.
- Doug Barbierri: Support both hotel projects. Will be good for city in general as well as economy. Satisfy market need. Any new development will cause traffic problem, send issue to Traffic Commission.
- Alan Hirsch: Tier 1 standard is much lower than LEED Gold. Should require structural soil for trees. Question tree standards and environmental standards.
- Shane Tucker: Support both hotels. Reviewed economic data. Firms are very good, conservative. In 2011, HVS prepared report for Hyatt Place on campus, forecasted occupancy of 60%, in fact achieved 79%, 83% and 85% in years since built. Other evidence that community underserved.
- Greg Schwab: Hyatt is good project in wrong place, should not be built at expense of residential neighborhood.
- Dick Fields: Revenue benefits from building more accommodations include building industry, restaurants, jobs, etc. Projects should be determined by free market, not politics. City should encourage business development.
- Jeff Miller, Finance & Budget Commission: Working on budget projection models for next 20 years. Reasonable assumption is \$250 million of unfunded liabilities, currently unsustainable. Will need to look for differ-

ent types of revenue.

- Colin Walsh: Issue has deep impacts on neighborhoods. Understand Council needs to weight economic benefits.

D. Parro: Conservation estimate of room nights by HVS, analysis was looking at a market niche, not all hotels in the community.

Public Hearing: Community Development Administrator Katherine Hess: Overview of project and Finance & Budget and Planning Commission review.

Hyatt House Hotel – Proposed Extended Stay Hotel at 2750 Cowell Boulevard, Planning Application #15-60

Guneet Bajwa, Presidio Companies, applicant: Underserved market, no extended stay hotels and no upscale hotels. Hyatt proposal has 120 rooms, zero net energy, LEED Gold. Designed with Davis values by Davis teams.

Bill Habicht: Neighborhood outreach included 3 meetings, first 2 before application submittal. Interested in supporting arts, empowerment activities. Committed to fair labor practices.

Michael Bisch: Hotels included in South Davis Specific Plan. Property was previously rezoned, landscaping requirement was reduced from 20% to 10%. At that time, South Davis Specific Plan was not amended alongside zoning.

Kimo Bertran: Hyatt brand outperforms competitors, with occupancy and revenue per room. Extended stay hotel guests are seeking neighborhoods, support location.

Sid England, environmental consultant: Energy efficiency, renewable energy.

Mayor Davis opened the public hearing.

- Fabrizio Sasso, Sacramento Central Labor Council; Robert Flack and Ty Hudson, Unite Here Local 49; James Major, Davis Diamonds Gymnastics; Doug Barbierrri; Nina Minha; Diane Evans; Davis Morse; Mark West; Joy Cohan; Dechristy Adams; Amber Flayman; and Josh Chapman spoke in support of the project. Comments included: Zoning allows for development. Community should embrace this project. Developers participating in social and emotional economy, inclusive of both mentally and physically disabled. Developer offered scholarships for low-income students. Project team has agreed to card check neutrality; opportunity for workers to determine own destiny to bargain collectively, decent wages, affordable health insurance. Substandard utilities in this area of town; only way that PG&E and ATT will upgrade is if project goes through. Wish to see more development in area, have already had 3 cases of vandalism at Davis Diamonds; staff close gymnastics facility late at night, more activity will be positive. Project supports business goals of community. Need for quality hotels in town. Need project for revenue to pay for the things we love in

our community. Promote economic objectives for Davis as visitable destination. Will improve greenbelts.

- Kyle Thompson; Kevin Nutsen-Grant; Levi Sousa; Bridgette Boyd; Karen Ashby; Janice Rosenberg; Conner Gorman; Colin Walsh; Julianna; and an individual (name not provided) spoke in opposition to the project. Comments included: Hyatt and amenities proposed have value, problem is size of building and proximity to homes. Traffic and noise impacts. Council considering multiple hotel proposals without having a good grasp on exact numbers needed. Planning Commission walked around site and met with neighborhood residents; rejected project. Project has not gone to Tree Commission, should discuss further mitigation. Currently zoned office industrial, hotel is louder and busier, active after hours and on weekends. Inconsistent with South Davis Specific Plan; will have to waive landscape requirements. Should build apartment complexes instead. Will affect animals and plants. Suggest hotel be used as transitional housing when not fully occupied.
- Diana Kota, Mosaic Tea and Coffee: Developer investing in people.
- Timothy Nutter, Art Theater of Davis & Davis Arts Alliance: Developer team suggested different ways to fulfill condition of approval related to art.
- Alan Hirsch: Should require LEED Gold. Trees, should require 50% of shade in parking lot, should be monitored by arborists. Ensure there is structural soil to protect trees.
- Alan Pryor: Only 1 bus line on street. Concerned that bar will be open to public— next to single family homes, greenbelt and children’s athletic facility. Question traffic study—based on traffic counts from Embassy Suites, currently in litigation. Decreased parking, doesn’t account for employees. Overflow will go on residential street. No need to rush project.
- Josh Jones: Solar designer. Hyatt seems small, narrow space for large building. Staff report shows tree in front of west facing solar array. If solar in south parking area, trees are contradictory. Trees to block view will shade parking lot.
- Matt Williams: Not support recommendations to amend the General Plan or South Davis Specific Plan. No assessment in EIR for amendments.
- Scott Davis: Live close to apartment development on 8th Street. Benefits to living next to higher structure, shield from Highway 113, provides sound barrier. No negative consequences from 4-story apartment in close proximity to home. Have been good neighbors.

Mayor Davis closed the public hearing.

City Council recessed at 8:53 p.m. and reconvened at 9:00 p.m.

Councilmember comments included:

- B. Lee: Not support 4 stories. Should expect compromise in height with change in allowed use. If item comes back, should be below 40 feet and 3 stories.

- W. Arnold: Request another good faith effort to meet with neighborhood, to include staff participation. Would like to see solidification of promises to community groups, ongoing support for school, large upfront support for Mosaic. Work needs to be done with City Arborist and possibly Tree Commission to develop plan to care for trees, possibly consider structural soil. If used as mitigation for project, developer should work with arborist to define border, responsibilities for care or replacement of trees, developer financially responsible. Interested in additional trees to add to screening. Heard concern from neighbors about sound from pool, possibly consider mitigation, even indoor pool.
- L. Frerichs: 2 issues that resonate: privacy concerns, future use of property. Want to see additional work on future use of property. Additional trees as screen, mitigation funds for future greenbelt tree care maintenance. Request applicant to work with neighbors. Ok with 4 stories. Should try to get parking agreement with adjacent property owners, Davis Diamonds, The Printer, and other. Large parking lots that are empty on weekends. Consider parking off Cowell.
- R. Davis: Will leave to staff to bring back in reasonable time. Reasonable to request funds for tree maintenance. Consider including amenities in conditions/plan check to make sure they stay with property should it change hands in the future.

Guneet Bajwa: Would like to take in information, talk to development team.

By consensus, City Council continued the item to November 15. Staff will provide status update, or if possible, modified conditions/proposal from developer.

City Council recessed at 10:15 p.m. and reconvened at 10:20 p.m.

Public Hearing:
Marriott Residence Inn Hotel
– Proposed Extended Stay Hotel at 4647 Fermi Place, Planning Application #15-70

Community Development Administrator Katherine Hess: Overview of project and mitigation measures

John Jackson, Jackson Properties: Project has evolved, can now place 150kw solar on building. Balance of energy will be supplied through community choice program when it is available. Confident can get to LEED Silver, not realistic to get to LEED Gold.

Bob Somilier: Planning Commission supported project, recommended more articulation on north side and enhanced landscaping, have been accommodated.

Tom Holloway, KLA Landscaping: Overview of landscape plan.

Pat McCuen: Overview of sustainable features

Jeff Little, Sycamore Environmental: Burrowing owl mitigation, measures have been reviewed and received California Department of Fish and Wildlife input. Identifying locations for active mitigation.

Mayor Davis opened the public hearing.

- Ron Glick: Project will put more traffic on street. High speeds need to be decreased. Consider lights at Pena and Police Station.
- Robert Sang, Marriott International Development: Support project. Residence Inn achieves over 80% occupancy.
- Colin Walsh: Support project. Encourage Council to ensure any hotel approved at a certain LEED standard is accomplished as required.
- Connor Gorman: Project should try to conform to same labor standards as Hyatt or better. City should make sure that construction workers are provided with livable wages and proper benefits.
- Alan Pryor: Not support reducing standard of LEED Gold to Silver, unless get independent analysis that Gold is infeasible for site. Should include more solar panels. Issue is card check neutrality, want workers to be paid appropriately. Consider making endowment fund to burrowing owl preserve south of Davis.
- Alan Hirsch: Should require LEED Gold, not Silver. Trees need structural soil and arborist to review project. Should require replanting trees when warranted.
- Matt Williams: Total projected increase in revenue is 80% for 25% increase in beds.

Mayor Davis closed the public hearing.

John Jackson: Need to meet with labor organizers before agree to card check neutrality.

Councilmember comments included:

- W. Arnold: Support LEED Gold. Request meeting with Unite Here to discuss card check neutrality agreement.
- B. Lee: Request staff provide more information on new LEED standards. Request productive efforts be made with organized labor.
- L. Frerichs: LEED equivalent is ok, certification not required. Request staff provide more information on certification versus holding to standard. Request sit down conversation with Unite Here.
- R. Davis: Council has expressed interest in moving forward. Request third party look at LEED certification. Also, discuss card check neutrality. Open to option on burrowing owl, work on what makes most sense.

By consensus, City Council continued the item to November 15. Staff will provide status update or amended conditions as necessary.

Marijuana Considerations – Urgency Ordinances Establishing an Interim Moratorium on Commercial Marijuana Uses and Outdoor Marijuana Cultivation, and a Prohibition of Smoking of Marijuana in Public Places

Assistant Community Development & Sustainability Director Ashley Feeney: Summarized two urgency ordinances: 1) Establishes a 45-day citywide moratorium on the establishment, creation, or expansion of any and all commercial marijuana uses and outdoor cultivation; and 2) Expressly prohibits smoking marijuana in all public places and publically accessible places.

Public comments:

- Deanna Garcia: Medical cannabis farmer. Invite Council to tour operation regulated by City of Sacramento
- Chase Calgerri: Oppose moratorium. Medical cannabis patient. Urgency Ordinance will make it harder to obtain medical marijuana, Davis residents will have to pay more for deliveries and travel out of town.
- Casey Dominguez, A Therapeutic Alternative: Medical dispensary, cultivation site and bakery in Sacramento. Regulation for medical cannabis should be put in place sooner rather than later. If pass urgency ordinance, should complete process within 45 days without extending it again.
- Brian Egan: Medical marijuana patient. Able to make order and have prescription delivered to home. Unnecessary moratorium.
- Connor Gorman: Concern over prohibition of smoking marijuana in public places, likely to negatively impact lower economic and homeless.
- Eric Gudz, Students for Sensible Drug Policy and Integrate Cal Community Partners: Intent for moratorium is sensible step towards progress, but should be at expense of collectives and cooperatives. Ordinance is a threat to vulnerable population. Support exemption to ordinance to provide needed access.
- Veronica Foster: Costs for medical marijuana is approximately \$1,000 per week. Request Council reconsider moratorium, especially outdoor cultivation for medical use. Indoor cultivation costs a lot of money.
- Joe Wiskerta, Green Heart Club Medical Cannabis Club: Distinction between medical and recreational. Cannabis grown indoors is energy intensive, expensive. Request Council regulate outdoor cultivation, consider not visible, no odors from street. Believe can be addressed and mitigated.
- Ron Glick: Lights to grow marijuana indoors uses a kilowatt. People ought to be able to have a plant or two in their yard, not visible or offensive to neighbors. Urge Council to go in different direction.
- Alan Hirsch: Support keeping Davis a smoke free zone. Protect vulnerable children. In terms of commercialization, should instead have state run marijuana stores.
- Clint, USCBD Inc.: Commercial use already permitted in Davis. Definition of commercial uses are not clear. Want to make sure hemp from Cannabidiol (CBD) is not included in moratorium, wording does not define hemp well. Invite Council to site. Request clear definition of CBD, and that use for hemp is ok.
- Dave Carlson: HSC 11018 distinguishes industrial hemp. From business interest, need for manufacturing. Great opportunity if act quickly. Have 55 warehouses in Sacramento. Manufacturing could be captured in Davis.

City Attorney Harriet Steiner: Currently, City has not addressed manufacturing/processing uses.

L. Frerichs moved, seconded by W. Arnold, as follows:

1. Adopt Urgency Interim Zoning Ordinance No. 2488 – Establishing a Moratorium in All Zoning Districts on the Establishment, Creation or Expansion of Any and All Commercial Marijuana Uses and All Outdoor Marijuana Cultivation, Effective Immediately From and Including November 1, 2016 Through and Including December 15, 2016, Unless Extended By Further Action of the City Council, as amended:
 - a. Add to Exemptions section: Does not apply to existing deliveries and delivery services of medical marijuana to qualified patients in the City, to the extent such services do not constitute medical marijuana dispensaries.
 - b. Add language: Ordinance does not apply to nor seek to restrict in any way the rights granted to medical patients to associate under the form of collectives or cooperatives for their medical marijuana needs.
2. Robust community outreach effort to be initiated immediately. Direct staff to return with plan at the next Council meeting. Effort should include medical cannabis community.

B. Lee: Request outdoor cultivation for medical purposes be agendaized for Council consideration.

R. Davis: Request timeline on November 15 instead of fully formed plan, to include Council discussion of outdoor cultivation.

Motion passed by the following vote:

AYES: Arnold, Lee, Frerichs, Davis

NOES: None

ABSENT: Swanson

R. Davis moved to treat marijuana as any lighted tobacco/smoking regulation, include explicitly in Ordinance. Motion withdrawn.

W. Arnold moved, seconded by R. Davis, to adopt Urgency Ordinance No. 2489 – Adding Section 34.02.025 to the Davis Municipal Code to Expressly Prohibit Smoking Marijuana in All Public Places and Publicly Accessible Places With the Exception of Medical Marijuana. Motion passed by the following vote:

AYES: Arnold, Lee, Frerichs, Davis

NOES: None

ABSENT: Swanson

City Council
Brief Commu-
nications

None

Long Range
Calendar

D. Brazil: Closed session meeting will be held November 17, 5:30-9:00 p.m.

Adjournment

Meeting was adjourned at 12:38 a.m.

Zoe S. Mirabile
City Clerk