



City of Fresno

2600 Fresno Street
Fresno, CA 93721
www.fresno.gov

Meeting Minutes - Draft City Council

President - Clinton J. Olivier

Vice President - Esmeralda Z. Soria

Councilmembers:

Oliver L. Baines, III, Steve Brandau, Garry Bredefeld,

Paul Caprioglio, Luis Chavez

City Manager - Bruce Rudd

City Attorney - Douglas T. Sloan

City Clerk - Yvonne Spence, CMC

Thursday, June 8, 2017

8:30 AM

Council Chambers

Regular Meeting

The City Council met in regular session in the Council Chamber, City Hall on the date and time written above.

8:35 A.M. ROLL CALL

Councilmember Bredefeld arrived at 8:36 a.m.

Councilmember Baines arrived at 8:38 a.m.

Council President Olivier arrived at 10:00 a.m.

Present: 7 - President Clinton Olivier
Vice President Esmeralda Soria
Councilmember Oliver L. Baines III
Councilmember Steve Brandau
Councilmember Garry Bredefeld
Councilmember Paul Caprioglio
Councilmember Luis Chavez

Invocation by Father Joaquin Soria Arriaga of Our Lady of Mt Carmel Church

Pledge of Allegiance to the Flag

APPROVE AGENDA

City Clerk Spence announced that the minutes will be approved later in the meeting once additional information was received.

On motion of Councilmember Caprioglio, seconded by Councilmember Bredefeld, the above hereby be adopted as amended. The motion duly

carried, **RESOLVED by a unanimous vote.**

Aye: 6 - Soria, Baines III, Brandau, Bredefeld, Caprioglio and Chavez

Absent: 1 - Olivier

CEREMONIAL PRESENTATIONS

[ID17-785](#) Presentation of the SPCA Pet of the Month

PRESENTED

[ID17-754](#)

Recognize and Commend the 140th Anniversary of the Fresno Fire Department

PRESENTED

APPROVE MINUTES

[ID17-101](#) Approval of minutes from May 25, 2017

There is a correction to the minutes of May 25, 2017. The amended motion on the 2:00P.M. #2 item should read "on a motion by Councilmember Brandau, to approve the staff recommendation, except for the condition of 5c which was seconded by Vice President Soria."

On motion of Councilmember Brandau, seconded by Councilmember Caprioglio, the above Minutes hereby be approved as amended. The motion duly carried, RESOLVED by a unanimous vote.

Aye: 6 - Soria, Baines III, Brandau, Bredefeld, Caprioglio and Chavez

Absent: 1 - Olivier

COUNCILMEMBER REPORTS AND COMMENTS

Vice President Soria wanted to let the public know that earlier this week on Tuesday, they had their first participatory budget. This is where residents and business owners can help determine where to spend the \$50K in District One's budget.

Vice President Soria wants to thank Fresno Rainbow Pride Parade for letting her be a part of it. It was successful with over 3,000 people attending. They were celebrating the 27th annual parade. She also thanked the Fresno

Police Department for being there.

Councilmember Baines made an announcement to the Community to let everyone know that Kayla Foster the young lady who was tragically killed will be having her memorial service held on Saturday, June 10, 2017 at 10:45 a.m. at Cornerstone Church in downtown Fresno. He also requested to adjourn today's meeting in Kayla's memory.

Councilmember Bredefeld announced that he and the Mayor will be bringing to the council the recreational marijuana dispensary ban to the council on June 22, 2017 at 4pm time certain.

Councilmember Chavez thanked Del Estabrooke and the Code Enforcement Staff on a couple of clean ups and the residents in District 5 are very happy.

1. CONSENT CALENDAR

APPROVAL OF THE CONSENT CALENDAR

On motion of Councilmember Caprioglio, seconded by Councilmember Chavez, the CONSENT CALENDAR was hereby adopted by the following vote:

Aye: 6 - Soria, Baines III, Brandau, Bredefeld, Caprioglio and Chavez

Absent: 1 - Olivier

- 1-A** [ID17-732](#) Approve a substitution of a listed subcontractor Super Seal & Stripe for the Manchester Transit Center Remodel, Project ID FC00019 (Council District 7)

This Action Item was approved on the Consent Calendar.

- 1-B** [ID17-755](#) Authorize the Chief of Police or his designee to enter into an agreement with Central Unified School District for continued use of Student Resource Officer police services

This Discussion Item was approved on the Consent Calendar.

- 1-C** [ID17-787](#) Actions pertaining to the contract with Lexipol, LLC., for law enforcement policy manual updates:
1. Approve first amendment to the agreement with Lexipol, LLC., extending the term of the agreement by one year, and increasing the total contract dollar amount to \$110,000.
 2. Authorize the Chief of Police or designee to execute all documents related to this contract.

This Discussion Item was approved on the Consent Calendar.

1-D [ID17-781](#)

Approve the purchase of Emission Offsets, as required by the San Joaquin Valley Air Pollution Control District, for \$166,428 from Olduvai Gorge, LLC. (Citywide)

This Action Item was approved on the Consent Calendar.

1-E [ID17-761](#)

RESOLUTION - Granting authority to the City Manager or his or her designee to enter into routine parking agreement for bulk monthly parking contracts for 50 stalls or more.

APPROVED. RESOLUTION 2017-146

This Action Item was approved on the Consent Calendar.

1-F [ID17-784](#)

***RESOLUTION - 535th amendment to the Master Fee Schedule (MFS) Resolution No. 80-420 increasing certain entrance fees and adding a discounted student rate to the Shinzen Japanese Garden fees

The above item was removed from the Consent Calendar and heard as a Contested Consent Calendar item.

1-G [ID17-800](#)

***BILL NO. B-28 - (Intro. 5/25/2017) (For adoption) - Approving the Development Agreement by and between the City of Fresno and High and Mighty Farms, Inc., Courthouse California, LLC., and Nancy M. Dunlap, Trustee of the Ruth Martori Non-QTIP Marital Trust dated July 26, 1994 for the future development of the approximately 78 acre subject property.

APPROVED. ORD 2017-29

This Action Item was approved on the Consent Calendar.

1-H [ID17-788](#)

Approve Habitat for Humanity's extension to the Exclusive Negotiation Agreement for the disposition and development of City-owned property located at Willow Avenue and Byrd Avenue (Council District 5)

This Action Item was approved on the Consent Calendar.

1-I [ID17-799](#)

***BILL NO. B-25 - (Intro. 5/25/2017) (For adoption) - Adopt the annual amendment to Subsection (a) of Sections 7-504 and 7-505 of the Fresno Municipal Code relating to local Sales and Use Taxes, pursuant to the Memorandum of Understanding with Fresno County (MOU)

APPROVED. ORD. 2017-30.

This action item was approved on the Consent Calendar.

1-J [ID17-780](#)

Reject all bids to the City of Fresno's Southeast Surface Water Treatment Facility and Kings River Pipeline Security System Installation Contract. Bid File 3516 (All Districts)

This Action Item was approved on the Consent Calendar.

1-K [ID17-704](#)

RESOLUTION - Certifying to the Fresno County Auditor the amount of the cancellation valuation fee for the cancellation of Agricultural Land Conservation Contract (ALCC) No. Ap-1366

APPROVED. RESOLUTION 2017-147.

This Resolution was approved on the Consent Calendar.

CONTESTED CONSENT CALENDAR

1-F [ID17-784](#)

***RESOLUTION - 535th amendment to the Master Fee Schedule (MFS) Resolution No. 80-420 increasing certain entrance fees and adding a discounted student rate to the Shinzen Japanese Garden fees

Councilmember Brandau made a motion to continue this item for three weeks and schedule a workshop and vote on the item at that time.

Councilmember Bredefeld asked for a breakdown on the fees and operating expenses.

On motion of Councilmember Brandau, seconded by Councilmember Bredefeld, the above Action Item hereby be approved. The motion duly carried, RESOLVED by the following vote:

Aye: 6 - Soria, Baines III, Brandau, Bredefeld, Caprioglio and Chavez

Absent: 1 - Olivier

3. GENERAL ADMINISTRATION

3-A [ID17-782](#)

Approve Change Order No. 9 to the construction contract for the City of Fresno's Southeast Surface Water Treatment Facility to increase the lump sum scope of work by \$543,385 (Citywide)

The above item was introduced to Council by Director Esqueda of the Public Utilities Department. This project has also been approved by the Capital Project Oversight Board as well.

On motion of Councilmember Caprioglio, seconded by Councilmember Chavez, the above Action Item hereby be approved. The motion duly

carried, **RESOLVED by a unanimous vote.**

Aye: 6 - Soria, Baines III, Brandau, Bredefeld, Caprioglio and Chavez

Absent: 1 - Olivier

- 3-B** [ID17-758](#) ***RESOLUTION - 58th amendment to the Annual Appropriation Resolution (AAR) No. 2016-118 to appropriate a total of \$4,366,000 in the General Fund for the payment of claims and refunds in the Workers' Compensation Fund and for partial replenishment of the self-insured retention (SIR) in the Liability Fund (Requires 5 affirmative votes)

The above item was introduced to Council by Director Cardell of the Personnel Department. There was discussion about a workshop on worker's compensation and wellness check ups.

APPROVED. RESO 2017-148.

On motion of Councilmember Caprioglio, seconded by Councilmember Chavez, the above Action Item hereby be approved. The motion duly carried, RESOLVED by a unanimous vote.

Aye: 6 - Soria, Baines III, Brandau, Bredefeld, Caprioglio and Chavez

Absent: 1 - Olivier

PLEASE NOTE: UNSCHEDULED COMMUNICATION IS NOT SCHEDULED FOR A SPECIFIC TIME AND MAY BE HEARD ANY TIME DURING THE MEETING

UNSCHEDULED COMMUNICATION

Mitch Effertly spoke during unscheduled communication regarding item 1C, pertaining to the contract with Lexipol, LLC, for law enforcement policy manual updates.

5. CLOSED SESSION

- 5-A** [ID17-837](#)

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION - Government Code Section 54956.9, subdivision (d)(1)

1. City of Fresno v. Pinedale County Water District, et al.; and does 1 through 15.

Madera Superior Court Case No.: MCV043413.

The above item was discussed during Closed Session. No open session announcement was made regarding this item.

Closed session from 9:24 A.M. to 9:48 A.M.

2. SCHEDULED COUNCIL HEARINGS AND MATTERS

9:50 A.M.

[ID17-805](#) RESOLUTION - In Support of Assembly Bill 1408.

Councilmember Bredefeld made an announcement before taking on the 9:50 A.M. item, stating that on Thursday, June 15, 2017 at 1:00P.M., there will be a ceremony to unveil the "In God We Trust" signage underneath the back Council wall.

The above item was presented to Council by Mayor Brand.

The following member of the public wanted to speak on this item: Mitch Effertly spoke against the bill, the last sentence has "or" but should be changed to "and" before the bill should be supported.

Councilmember Bredefeld will support this bill but wonders why it gives three chances.

Councilmember Brandau stated that he agrees with Mr. Effertly and thinks the bill should read "and" instead of "or".

Councilmember Caprioglio stated that he will amend his motion to include "and" instead of "or". Councilmember Brandau seconded the motion. Councilmember Brandau explained to Mr. Effertly that this council will submit the change to the resolution, but that does not mean that they will accept the change.

On motion of Councilmember Caprioglio, seconded by Councilmember Brandau, the above Resolution hereby be approved as amended. The motion duly carried, RESOLVED by a unanimous vote.

Aye: 6 - Soria, Baines III, Brandau, Bredefeld, Caprioglio and Chavez

Absent: 1 - Olivier

10:00 A.M.

- [ID17-656](#) **HEARING** - Regarding the vacation of a portion East Kings Canyon Road at South Apricot Avenue. (Council District 5)
1. **RESOLUTION** - Ordering the vacation of a portion East Kings Canyon Road at South Apricot Avenue.

The above item was introduced to Council by Chief Surveyor Camit of the Public Works Department. The public hearing opened at 10:02 a.m. to 10:04 a.m.

APPROVED. RESO 2017-150

On motion of Councilmember Chavez, seconded by Councilmember Caprioglio, the above Action Item hereby be . The motion duly carried, RESOLVED by the following vote:

Aye: 7 - Olivier, Soria, Baines III, Brandau, Bredefeld, Caprioglio and Chavez

10:05 A.M.

- [ID17-668](#) **HEARING** - Regarding the vacation of a portion North Doolittle Drive, north of West Herndon Avenue. (Council District 2)
1. **RESOLUTION** - Ordering the vacation of a portion North Doolittle Drive, north of West Herndon Avenue.

The above item was introduced to Council by Chief Surveyor Camit in the Public Works Department.

Open hearing at 10:06 a.m. to 10:08 a.m.

Jim Coelho, John Kinsay, spoke on this item.

Director Mozier of Public Works also spoke on this item.

On motion of Councilmember Brandau, seconded by Councilmember Caprioglio, that the above Action Item be approved. The motion carried unanimously.

Aye: 7 - Olivier, Soria, Baines III, Brandau, Bredefeld, Caprioglio and Chavez

SCHEDULED COMMUNICATION**10:10 A.M.#1**

[ID17-777](#) Appearance by Jeffrey Roberts (Assemi Group) to request the City of Fresno release property to develop in the County of Fresno subject to City of Fresno Standards with consent to annex.

Mr. Roberts on behalf of the Assemi Group addressed the Council and had a request to the City of Fresno to release property to develop in the County of Fresno subject to City of Fresno Standards with consent to annex. City Manager Rudd stated that staff has already met with Mr. Roberts and outlined a number of issues related to his request.

10:10 A.M.#2

[ID17-791](#) Appearance by Elisia White to discuss providing a safe haven for people without housing (Speaker resides in District 4)

Ms. White appeared and spoke to the Council regarding the homeless.

10:10 A.M.#3

[ID17-792](#) Appearance by Mary Esther Correa to dispute the fines she has incurred by Code Enforcement on her Iowa Street property (Speaker's property located in District 7)

Ms. Correa appeared before Council to dispute the fines she has incurred by Code Enforcement.

10:10 A.M.#4

[ID17-793](#) Appearance by Garth Zambrana to discuss opening a recycling center at 2503 Blackstone Ave. (Council District Unknown)

Mr. Zambrana appeared before Council to discuss opening a recycling center at 2503 Blackstone Ave. Council President Olivier had his staff set up a meeting with him to discuss further.

There was a recess from 10:35 a.m. - 1:45 p.m.

1:45 P.M. CEREMONIAL PRESENTATIONS

[ID17-811](#) Recognize the Edison High School Band

The Edison High School Band was recognized.

2:00 P.M.

[ID17-790](#)

Consider	Plan	Amendment	Application	No.	A-17-004,	Rezone
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Application No. R-17-006, Development Code Text Amendment Application No. TA-17-004 and related environmental finding filed by the Development and Resource Management Department Director pertaining to 174.6 acres of property as follows: (Citywide)

1. **ADOPT** Environmental Assessment No. A-17-004/R-17-006/TA-17-004, an Addendum to Final Master Environmental Impact Report SCH No. 2012111015 (MEIR) certified by the Fresno City Council on December 18, 2014 for the Fresno General Plan and Development Code, pursuant to California Environmental Quality Act Guidelines Sections 15162 and 15164.
2. **RESOLUTION** - Approving Plan Amendment Application No. A-17-004, pertaining to 67.32 acres, to amend the Fresno General Plan (Figure LU-1: Land Use and Circulation Map), the Bullard, Fresno High, McLane, Roosevelt, Edison, Hoover and Downtown Neighborhoods Community Plans, the Tower District and Fulton Corridor Specific Plans, and the Fresno Yosemite Airport Land Use Compatibility Plan; and pertaining to an additional 107.28 acres to repeal the 1966 Civic Center Master Plan, as described in Exhibit A.
3. **BILL - (For introduction and adoption)** Approving Rezone Application No. R-17-006, pertaining to 67.32 acres, to amend the City of Fresno Zoning Map to revert certain parcels to a zone district and planned land use equivalent to that existing under the prior general plan in a manner consistent with General Plan policy and without significant environmental impacts, as described in Exhibit A.
4. **BILL - (For introduction)** Approving Text Amendment Application No. TA-17-004 for minor changes to the Development Code in order to improve functionality, clarity, internal consistency, and consistency with State law. Proposed amendments affect the following standards and/or procedures: abandonment of private right-of-way; calculation of residential density; rear yard setback reduction; determining lot frontage; applicability of multi-family frontage coverage and front setback requirements; the allowed locations of auto sales and leasing, caretaker residences, family day care, parks, and schools; applicability of sidewalk configuration; allowed locations of accessory structures and pool equipment; safety standards for electric fences; intersection visibility; applicability of TOD Height and Density Bonus; landscape buffers; temporary parking lots; signs; child care centers and family child care homes operational requirements; drive-throughs; mobile vendors; amateur (ham) radios; Airport Land Use Commission review of text amendments; planned developments; tasting rooms, among others. The affected sections are 15-108-B-5, 15-310-B, 15-312-A, 15-904-A-7, Table 15-1003, Table 15-1102, 15-1104-B,

Table 15-1202, Table 15-1504-K-2, 15-2004-D-2-b-ii, 15-2005, Figure 15-2006-C, 15-2010-J, Figure 15-2018, Table 15-2018-A, 15-2102-B, 15-2305-C-1, Table 15-2305-C-1, 15-2431, 15-2605-B, Table 15-2608, Table 15-2608-B-5, 15-2609-H, 15-2612-A, 15-2612-D, Section 15-2725, 15-2728-B-2, 15-2728-B-2, 15-2759, 15-5808, 15-5903-D, 15-5904-B-3, 15-6707, and 15-6802.

The above item was introduced to Council by DARM Assistant Director, Zack. He explained that this is a clean up document. There are text changes to the Development Code. There are two ERRATA documents, ERRATA 1 of 2 that they want to include some standards for child care facilities under Section 15-2725 and they are adding a section D. ERRATA 2 of 2 where staff recommends that the Council does NOT adopt the following changes to Section 15-5808 per the recommendation of the Airport Land Use Commission:

SECTION 29. Section 15-5808 of the Fresno Municipal Code is amended as follows:

15-808 Airport Land Use Commission Review

The Airport Land Use Commission (ALUC) shall review all text amendments [which affect the height, density, use, or related aspects of properties within their purview]. The ALUC shall also review all Rezones and Plan Amendments that are within their purview.

The following speakers from the public spoke on this item:

Joe Guagliardo representing McDonald's Corp, spoke in opposition

Herb Arden, spoke in opposition

Douglas Richert, spoke and wants to remove item 15 from today's action

Larry Taylor spoke in opposition and wants to remove item 15 from today's action

Dixie Salazar, spoke in opposition

Kate McKnight, spoke in opposition

Kiel Schmidt

Marco Zamora spoke in favor

Mirelin spoke in opposition of limitation and expiration date on childcare

Keith Bergthold spoke in favor

Jeff Roberts speaking on behalf of himself spoke in favor

Seeing no more speakers Council President Olivier closed public comment.

Councilmember Baines stated he wants to correct the record from several people who gave misinformed public remarks, so we definitely want to clean that up first. I'll do that by asking the City Attorney a couple of questions if I can. A lot of people talked about the Eaton Plaza Plan. City Attorney, do we have an adopted Eaton Plaza Master Plan? Supervising Deputy City Attorney Kolluri responded, so there is no formally adopted Eaton Plaza Master Plan. There was a document that came before Council that was essentially a conceptual plan. However, the proper procedure to have incorporated that into the Civic Center Master Plan would have been through a plan amendment to the Civic Center which should have been accompanied by CEQA and a Planning Commission meeting. None of those things happened. I did a search of resolutions and ordinances adopted by the council and there were no resolutions or ordinances adopted by the Council that amended the Civic Center Master Plan to adopt Eaton Plaza as a portion so my conclusion is that it was never formally adopted as an actual plan. Councilmember Baines said, so as a matter of fact, we do not have an adopted Eaton Plaza Master Plan? I wanted to get to that first so that everyone is clear. So there is no way to repeal a plan that doesn't actually exist. That is the first thing I wanted to clarify.

Councilmember Baines continued, secondly just because a lot of people came down here and talked about basketball courts. Does any action that we are doing today have to do with basketball courts? City Attorney Sloan responded no, not in any way whatsoever. I just wanted the council to be clear that this is not about basketball courts nor is it about repealing a plan that doesn't actually exist.

Councilmember Brandau made a motion to approve staff's recommendation, but also omit the following language which is however drive throughs will utilize this exception must take auto access from the street on which said freeway is located with respect to drive throughs, in Section 15-2728-B-2 (a) (ii).

Plus direct staff to return as soon as possible with a text amendment to eliminate all drive through restrictions within 1,000 feet of a freeway exit.

Also include Councilmember Baines' request to remove item 2 from GPA and rezone table.

On motion of Councilmember Brandau, seconded by Councilmember Baines III, that the above Action Item be approved as amended. The motion carried by the following vote:

Aye: 6 - Olivier, Soria, Baines III, Brandau, Caprioglio and Chavez

No: 1 - Bredefeld

4. CITY COUNCIL

ADJOURNMENT

The meeting was adjourned at 3:59 p.m. in memory of Kayla Foster and Marianne Collins King.