



City of Fresno

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

Meeting Minutes - Final City Council

President - Oliver L. Baines, III
Vice President - Paul Caprioglio
Councilmembers:

Lee Brand, Steve Brandau, Clinton J. Olivier,
Sal Quintero, Esmeralda Z. Soria
City Manager - Bruce Rudd
City Attorney - Douglas T. Sloan
City Clerk - Yvonne Spence, CMC

Thursday, May 14, 2015

8:30 AM

Council Chambers

Regular Session

The City Council met in regular session at the hour of 8:30 A.M. in the Council Chamber, City Hall, on the day above written.

8:36 A.M. ROLL CALL

Present: 7 - President Oliver Baines
Vice President Paul Caprioglio
Councilmember Lee Brand
Councilmember Steve Brandau
Councilmember Clinton Olivier
Councilmember Sal Quintero
Councilmember Esmeralda Soria

Councilmember Olivier entered the Council Chamber at 8:39 A.M.

Councilmember Quintero entered the Council Chamber at 8:40 A.M.

Invocation by Pastor Dustin Maddox, University Presbyterian Church

Pledge of Allegiance to the Flag

CEREMONIAL PRESENTATIONS

[ID#15-394](#) Presentation of the SPCA Pet of the Month

PRESENTED

[ID#15-366](#) Proclamation of "WOMEN'S LUNG HEALTH WEEK"

PRESENTED

[ID#15-378](#) Proclamation of "LUPUS AWARENESS MONTH"

PRESENTED

Add on Ceremonial - Recognition of Maddy Institute Interns Claudia Salinas, Tyler Munoz and Victoria Cuevas.

PRESENTED

[ID#15-376](#) Proclamation of "TEEN PREGNANCY PREVENTION AND AWARENESS MONTH"

PRESENTED

[ID#15-405](#) Honoring the 2015 Edison High School Boys Basketball Division 1 Valley Champions

PRESENTED

[ID#15-414](#) Proclamation of "WATER AWARENESS MONTH"

PRESENTED

APPROVE MINUTES

[ID#15-413](#) Approval of City Council minutes from April 30, 2015

APPROVED

On motion of Vice President Caprioglio, seconded by Councilmember Olivier, the above MINUTES were approved. The motion carried by the following vote:

Aye: 7 - Baines, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

COUNCILMEMBER REPORTS AND COMMENTS

Councilmember Quintero thanked all that made the Senior Spring Fling event at the Mosqueda Center a success on May 1st. City Departments at the event included PARCS, Police, Fire and Public Utilities. The event was sponsored by the PARCS Department, the Fresno Madera Area Agency on Aging, District Five Council Offices and Pacific Gas and Electric.

Councilmember Quintero also inquired into the status of a settlement with a developer over stalled improvements in South East Fresno. City Attorney Sloan stated the developer accepted the City's Counter offer to pay 2.5 million dollars to the City which would be enough to complete most of the

anticipated improvements. City Manager Rudd noted that the Public Works Department has already been given direction to begin design engineering and that Council would see an appropriation resolution for the money in July 2015. Councilmember Quintero thanked Vice President Caprioglio and his fellow Council Members for following through with a lawsuit against the developer.

Councilmember Brand thanked Public Utilities Director Esqueda and his crew for providing an immediate response to a water leak at a development in Council District Six. The crew did an exemplary job and spent fourteen hours dealing with the leak and saved thousands of gallons of water.

Councilmember Caprioglio thanked the Mayor and the City Administration for including the maintenance and development of parks in the City budget. He stated the move was long over due and would be greatly appreciated by all members of the public.

President Baines acknowledged and thanked the Fresno Police Officers that recently saved a family by running into a burning house. Those acknowledged were Officer Sean Cowart, Officer Jeremy DeMoss and Sergeant Diana Trueba.

APPROVE AGENDA

City Clerk Spence announced the following changes to the agenda: the proclamation of Water Awareness Month (File ID# 15-414) was sponsored by Vice President Caprioglio and Council Member Brand; the 1:30 P.M. closed session items (File ID#'s 15-325 and 15-368) had been removed from the agenda by staff and; the 10:00 A.M. # 2 item (File ID# 15-380) had been removed from the agenda and will not be continued to May 21, 2015 as the matter has reached a settlement.

On motion of Councilmember Olivier, seconded by Councilmember Soria, the AGENDA was approved as amended. The motion carried by the following vote:

Aye: 7 - Baines, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

1. CONSENT CALENDAR

APPROVAL OF THE CONSENT CALENDAR

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

Aye: 7 - Baines, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

- 1-A** [ID#15-295](#) Approve amendment to Consultant Contract with Highland Consulting for professional consulting services for ongoing and new railroad related Public Works projects

APPROVED

The above item was approved on the Consent Calendar.

- 1-B** [ID#15-354](#) Authorize the Public Works Director or his designee to enter a Fifth Amendment to a Reimbursement Agreement with the California High-Speed Rail Authority (CHSRA) for the purposes of extending the contract term to develop a series of cooperative agreements (Council Districts 1, 2 & 3)

APPROVED

The above item was approved on the Consent Calendar.

- 1-C** [ID#15-355](#) Adopt Resolution of Intention No.1098-D to vacate portions of public street and pedestrian walkway rights-of-way at the northeast corner of N. Blackstone and E. Shields Avenues (Council District 7)

APPROVED

The above item was approved on the Consent Calendar.

- 1-D** [ID#15-357](#) RESOLUTION - Of Intention to annex the territory associated with Conditional Use Permit No. 2008-157, 2012-032 and 2014-121 (commonly known as Fresno 40) as Annexation No. 8, to City of Fresno Community Facilities District No. 9, and setting the public hearing for June 11, 2015 at 10:00 a.m. (the area bounded by N. Fresno Street, N. Friant Road, E. Audubon and the Sugarpine Trail) (Council District 6)

RESOLUTION 2015-73 ADOPTED

The above item was adopted on the Consent Calendar.

- 1-E [ID#15-360](#) Approve the substitution of a listed subcontractor for the Tertiary Treatment and Disinfection Facility Project located at the Fresno/Clovis Regional Wastewater Treatment Facility (Council District 3)

APPROVED

The above item was approved on the Consent Calendar.

- 1-F [ID#15-375](#) Approve the appointments of Linda Solis and William Z. Simon to the Fresno Regional Workforce Investment Board

APPROVED

The above appointment was approved on the Consent Calendar.

- 1-G [ID#15-377](#) Approve the appointment of Jeffrey Bennett to the District 1 Plan Implementation Committee

APPROVED

The above appointment was approved on the Consent Calendar.

- 1-H [ID#15-401](#) Approve the appointment of Susan Smith to the Bicycle and Pedestrian Advisory Committee

APPROVED

The above appointment was approved on the Consent Calendar.

- 1-I [ID#15-383](#) ***BILL NO. B-11 - (Intro. 4/30/2015) (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)

ORDINANCE 2015-10 ADOPTED

The above item was adopted on the Consent Calendar.

CONTESTED CONSENT CALENDAR

No items were moved to the Contested Consent Calendar.

2. GENERAL ADMINISTRATION

- 2-A [ID#15-384](#) ***BILL NO. B-14 - (Intro. 4/30/2015) (For adoption) - Repealing Section 10-617 and adding Section 10-617; amending Section

10-603; and repealing Sections 10-620, 11-335 and 11-422 of the Fresno Municipal Code (FMC) relating to standards for vacant buildings

The above item was introduced to Council by Development and Resource Management Director Clark. Mayor Swearingin answered additional questions.

On motion of Councilmember Olivier, seconded by Councilmember Brandau, Council bifurcated this item into two separate votes consisting of the 30 day registration issue and the balance of the item. The motion to bifurcate passed by the following vote:

*Aye: 4 - Brand, Brandau, Caprioglio, Olivier
No: 3 - Baines, Quintero, Soria*

Councilmember Brand motioned to approve the 30 day registration portion of the proposed ordinance with a condition that staff come back no later than six months after the program begins to demonstrate that the program is working and, if it is not, Council could make changes to improve the item. President Baines seconded the motion which passed by the following vote:

*Aye: 5 - Baines, Brand, Caprioglio, Quintero, Soria
No: 2 - Brandau, Olivier*

ORDINANCE 2015-11 ADOPTED WITH CONDITION

On motion of Councilmember Olivier, seconded by Councilmember Brandau, the balance of the above Ordinance was adopted (the 30 day registration period was bifurcated and adopted by a separate vote). The motion carried by the following vote:

Aye: 7 - Baines, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

- 2-B** [ID#15-221](#) ***RESOLUTION - 42nd amendment to the Annual Appropriation Resolution (AAR) No. 2014-95 to appropriate \$2,223,500 for new capital projects in the Public Works Department (Citywide) (Requires 5 affirmative votes)

The above item was introduced to Council by Public Works Director Mozier.

Councilmember Quintero instructed Director Mozier to contact the two main property owners, Pacific Gas and Electric and Chamlian Enterprises, to

inquire about a partnership on fixing the street.

RESOLUTION 2015-74 ADOPTED

On motion of Vice President Caprioglio, seconded by President Baines, the above item was adopted. The motion carried by the following vote:

Aye: 7 - Baines, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

SCHEDULED COUNCIL HEARINGS AND MATTERS

Councilmember Soria exited the Council Chamber at 10:14 A.M. and returned at 10:27 A.M.

10:00 A.M.#1

- [ID#15-362](#) HEARING to consider Plan Amendment Application No. A-14-007, Rezone Application No. R-14-011, and related environmental assessment for the property located on the southwest corner of E. Mono Street and S. Adler Avenue (Council District 5)
- a. Adopt the environmental finding of Environmental Assessment No. A-14-007/R-14-011/S-14-060, a finding of a Mitigated Negative Declaration, dated April 3, 2015
 - b. RESOLUTION - Approving Plan Amendment Application No. A-14-007 amending the Fresno General Plan and Roosevelt Community Plan planned land use designation for ± 0.57 acres from the Medium Density Residential designation to the Office planned land use designation in the City of Fresno
 - c. BILL - (For introduction and adoption) - Amending the Official Zone Map to reclassify ± 0.57 acres from the R-1 (Single Family Residential, Fresno City) to C-P (Administrative and Professional Offices, Fresno City) zone district

The above item was introduced to Council by Development and Resources Management ("DARM") Director Clark. DARM Planner Bouvet and project applicant Dr. Patel also spoke on this item.

RESOLUTION 2015-75 ADOPTED

BILL B-15 INTRODUCED AND ADOPTED AS

ORDINANCE 2015-12

On motion of Councilmember Quintero, seconded by Councilmember Brand, the above item was adopted. The motion carried by the following vote:

Aye: 6 - Baines, Caprioglio, Brand, Brandau, Olivier and Quintero

Absent: 1 - Soria

10:00 A.M.#2

[ID#15-380](#) CONTINUED HEARING to consider a resolution of public use and necessity for acquisition of permanent utility easements and/or temporary construction easements from the following APNs: 581-030-02s owned by Rodric H. and Kimberly K. Lichti; 580-040-07 owned by Earleen Leshar; and 580-040-08 owned by Earleen Leshar as to an undivided 72% and the estate of Velda D. Leshar as to an undivided 28%; and 581-020-05s owned by Lilli Herold and Linda E. Cheney, as trustees of the "Lilli Herold Living Trust" (Continued to May 21, 2015 at 1:30 p.m.)

REMOVED FROM AGENDA

10:15 A.M.

Councilmember Olivier exited the Council Chamber at 10:23 A.M. and returned at 10:58 A.M.

Councilmember Brandau exited the Council Chamber at 10:30 A.M. and returned at 10:51 A.M.

[ID#15-363](#) Actions pertaining to the City of Fresno 2015-2019 Program Year Consolidated Plan: 1. Conduct a public hearing to obtain public comments on the Draft 2015-2019 Consolidated Plan; and 2. Resolution Adopting the 2015-2019 Program Year Consolidated Plan; authorizing submission to the U.S. Department of Housing and Urban Development (HUD) for application of the Community Development Block Grant (CDBG), HOME Investment Partnerships Emergency Solutions Grant (ESG), and Housing Opportunities for Persons with Aids (HOPWA) Programs and authorizing the City Manager to sign all implementing documents required by HUD as approved to form by the City Attorney

The above item was introduced to Council by Development and Resources Management Director Clark and by Victoria Joes of Lesar Development

Consulting.

The following member(s) of the public spoke on this item: Ashley Werner of Leadership Counsel for Justice and Accountability.

Director Clark requested that the item be continued to June 4, 2015 in order to accept additional public comment, to receive the Housing and Community Development Commission recommendation and to hear the item in coordination of the annual action plan.

Councilmember Soria requested that staff provide Council with a plan to ensure that goals, performance and expenditures are met for the current fiscal year.

CONTINUED TO JUNE 4, 2015

2. GENERAL ADMINISTRATION

- 2-C** [ID#15-317](#) Actions pertaining to the Fresno/Clovis Regional Wastewater Reclamation Facility (RWRF) Headworks Building Coating Repair and Stop Plate Installation (BF 3201) (Council District 3)
1. ***RESOLUTION - 48th amendment to the Annual Appropriation Resolution (AAR) No. 2014-95 appropriating \$375,000 for the Headworks Building Coating Repair and Stop Plate Installation project change orders (Requires 5 affirmative votes)
 2. Approve a contract change order in the amount not to exceed \$500,000 for change order work associated with the Headworks Building Coating Repair and Stop Plate Installation

The above item was introduced to Council by Department of Public Utilities Supervising Professional Engineer Norgaard. Mr. Norgaard read the following correction into the record: "The environmental finding has been previously assessed and was adopted by Council on June 5, 2014."

RESOLUTION 2015-76 ADOPTED

On motion of President Baines, seconded by Councilmember Soria, the above item was adopted. The motion carried by the following vote:

Aye: 5 - Baines, Caprioglio, Brand, Quintero and Soria

Absent: 2 - Brandau and Olivier

- 2-D [ID#15-320](#) ***RESOLUTION - Enacting changes to the Reserve Management Act

The above item was introduced to Council by City Controller and Finance Director Lima. City Manager Rudd also spoke on this item.

The following member(s) of the public spoke on this item: Dee Barnes of the Fresno City Employees Association.

RESOLUTION 2015-77 ADOPTED

On motion of Councilmember Brand, seconded by Vice President Caprioglio, the above item was adopted. The motion carried by the following vote:

Aye: 4 - Caprioglio, Brand, Brandau and Olivier

No: 3 - Baines, Quintero and Soria

3. CITY COUNCIL

- 3-A [ID#15-334](#) Council Boards and Commissions Communications, Reports, Assignments and/or Appointments, Reappointments, Removals to/from City and non-City Boards and Commissions:
1. Council of Governments - Swearengin-Ex-Officio (Olivier-Alternate)
 2. Financial Audit Committee - Brand - Chair, Olivier and Brandau
 3. Fresno Area Workforce Investment Corporation - Baines
 4. Fresno County Transportation Authority (FCTA) - Swearengin, Brandau
 5. Fresno Regional Workforce Investment Board - Baines, Renena Smith
 6. Fresno County Zoo Authority - Swearengin (Baines-Alternate)
 7. Fresno Madera Area Agency on Aging Board - Olivier
 8. Joint Powers Financing Authority - Baines, Vacant, Swearengin
 9. San Joaquin River Conservancy Board - Swearengin (Brandau-Alternate)
 10. Association for the Beautification of Highway 99 - Baines
 11. Upper Kings Basin Integrated Regional Water Management JPA - Brandau, Alternates - Soria, Georgeanne White and Thomas Esqueda

12. Economic Development Corporation Serving Fresno County - Brandau-Ex-Officio (Baines-Alternate)
 13. Fresno/Clovis Convention & Visitors Bureau (CVB) - Amy Fuentes
 14. League of California Cities (Annual Meeting) - Swearengin (Olivier-Alternate)
 15. San Joaquin Valley Air Pollution Control District - Baines
 16. Litigation Exposure Reduction Ad Hoc Committee - Brandau, Caprioglio
 17. Convention Center Oversight Advisory Board - Baines, (Brand-Alternate), City Manager, SMG General Manager and one representative from each of SMG's organizations
 18. Transportation Committee - Baines, Olivier, Soria
 19. Code Enforcement Sub-Committee - Baines, Olivier, Caprioglio and Mayor Swearengin
- Action Taken:

President Baines reported that he recently attended the annual retreat of the San Joaquin Valley Air Pollution Control District at Bass Lake. He noted the retreat was a study session in which many topics concerning air quality were discussed and it was noted that the organization updated it's mission statement during the event.

Vice President Caprioglio stated, for the record, that as a result of the Litigation Exposure Reduction Ad Hoc Committee's analysis and decision to move forward with a lawsuit against a developer over stalled improvements in South East Fresno, a settlement was reached. He noted it was the same settlement that Councilmember Quintero mentioned during Councilmember Reports and Comments.

SCHEDULED COUNCIL HEARINGS AND MATTERS CONTINUED

11:00 A.M.

[ID#15-393](#) Presentation of the Mayor's Fiscal Year 2016 Budget

The above item was introduced to Council by Mayor Swearengin and Finance Department Budget Manager Sumpter.

Councilmember Olivier asked to set up a special meeting with the administration and staff to find out the particulars about the improvements along Blackstone Avenue.

PRESENTED

3. CITY COUNCIL CONTINUED

- 3-B** [ID#15-379](#) RESOLUTION - Of support for the Central Valley Coalition for Reliable Energy

The above item was introduced to Council by District Three Council Assistant Barfield and Anne Kloose of Pacific Gas and Electric.

The following member(s) of the public spoke on this item: Eric Payne of the Greenlining Coalition.

RESOLUTION 2015-78 ADOPTED

On motion of President Baines, seconded by Councilmember Brandau, the above item was adopted. The motion carried by the following vote:

Aye: 7 - Baines, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

UNSCHEDULED COMMUNICATION

The following member of the public addressed the Council with Unscheduled Communication:

Don A. Glassen - discussed the slow code enforcement response against a property constructing a bathroom without permits.

RECESSED 11:45 A.M. to 1:30 P.M.

SCHEDULED COUNCIL HEARINGS AND MATTERS CONTINUED

1:30 P.M. CLOSED SESSION

The City Council met in closed session in Room 2125 from 1:30 P.M. to 1:44 P.M. to discuss the following:

- [ID#15-325](#) CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION - Government Code Section 54956.9, subdivision (d)(1)
1. Idalia J. Morgutia-Johnson v. City of Fresno, et al. United States District Court Case No.: 14-CV-00127 LJO/SKO

REMOVED FROM AGENDA

- [ID#15-368](#) CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION
Government Code Section 54956.9, subdivision (d)(4)
1. City of Fresno v. Michael Occhionero, et al.

REMOVED FROM AGENDA

- [ID#15-371](#) CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION - Government Code Section 54956.9, subdivision (d)(1)
1. Citizens for the Restoration of L Street v. City of Fresno, Superior Court Case No. 11CECG04172

The above item was discussed in closed session. City Attorney Sloan reported in open session that the City Council approved an appeal on the matter.

2:00 P.M.#1

Councilmember Olivier entered the Council Chamber at 2:06 P.M.
Councilmember Quintero entered the Council Chamber at 2:08 P.M.

- [ID#15-381](#) WORKSHOP on Farmland Preservation

The above item was introduced to Council by Mayoral Chief of Staff White. Mayor Swearingin and Development and Resources Management Director Clark also spoke on the item. Chris Scheuring, Associate Counsel with the California Farm Bureau Federation, and John Lowrie, Assistant Director with the California Department of Conservation also addressed Council.

PRESENTED

2:00 P.M.#2

- [ID#15-365](#) RESOLUTION - Approve the filing of a Sustainable Agricultural Lands Conservation Program grant application to develop a Farmland Preservation Program and authorize the Director of the Development and Resource Management or designee to accept a grant award up to \$100,000 and conduct all negotiations and execute and submit all related documents, contracts, agreements, and amendments which may be necessary for the development of the program

As this item directly related to the workshop held immediately before (2:00 P.M. Scheduled Item #1, File ID# 15-381) there was no staff introduction and

the item began with public comment.

The following member(s) of the public spoke on this item: Pat Ricckiuti, Mike Prandini of the Building Industry Association of Fresno/Madera, Manuel Cunha of the Nisei Farmers League, Jeff Roberts of Granville Homes and Granville Farms, Darius Assemi of Granville Homes and Granville Farms, David Williams of California Commercial Land Sales, Dan O'Connell of American Farmland Trust.

RECESSED 3:25 P.M. TO 3:32 P.M.

Mayor Swearengin stated, for the record, that this topic was not sprung upon the Councilmembers at the last minute but that the elected officials were made aware approximately a week before the first General Plan Hearing during a private meeting with Granville Homes. Mayor Swearengin noted that she was in attendance at the meeting along with Councilmember Brandau, President Baines and Councilmember Brand.

Councilmember Olivier asked Mr. O'Connell, for the record, to clarify the educational degrees he holds. Mr. O'Connell replied that he held the following degrees: a Bachelor of Arts in History from U.C. San Diego, a Masters Degree in International Agricultural Development from U.C. Davis and a degree in Education from Cornell University. Mr. O'Connell noted that Cornell and U.C. Davis are considered the two great agricultural land grant schools and that he was in the Agricultural Schools of each and took a lot of "Ag Econ" classes.

REJECTED (RESOLUTION NOT ADOPTED)

On motion of Councilmember Brandau, seconded by Councilmember Olivier, the above item was REJECTED. The motion carried by the following vote:

Aye: 4 - Caprioglio, Brand, Brandau and Olivier

No: 3 - Baines, Quintero and Soria

ADJOURNMENT

Adjourned at 4:30 P.M.

These minutes were approved by the following vote of the City Council during the June 4, 2015 Council meeting:

Aye: 6 - Baines, Brand, Brandau, Caprioglio, Olivier and Quintero

No: 0 -

Absent: 1 - Soria