



# 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*

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Thursday, November 19, 2015

1:30 PM

Council Chambers

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### Regular Session

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

### 1:46 P.M. ROLL CALL

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

Invocation by Minister Bryson White of the St Rest Baptist Church and Community Organizer, Faith in Communities

Pledge of Allegiance to the Flag

### CEREMONIAL PRESENTATIONS

#### ADD ON CEREMONIAL

Proclamation from the American Legion Riders of Post 509 to the Fresno City Council

*"In appreciation of generous donations to the American Legion Riders of Post 509 for Operation Flag Fresno. Your support, honoring our flag and veterans, demonstrates your patriotism and sets a positive example for other*

*civic leaders and the public!"*

PRESENTED

[ID#15-105](#) Resolution of Commendation for Central High School  
[7](#) Students Participation in 2015 National Youth  
Entrepreneurship Challenge in New York City

PRESENTED

[ID#15-104](#) Proclamation of "STANLEY L. MCDIVITT DAY"  
[9](#)

PRESENTED

## **APPROVE MINUTES**

*No minutes were on the agenda for approval.*

## **COUNCILMEMBER REPORTS AND COMMENTS**

*Vice President Caprioglio announced the meeting would be adjourned in the memory of Robert Duncan. He was known as "Mr. Bulldog" because of his tremendous support of Fresno State and Fresno State athletics. Mr. Duncan was also a supporter of the City of Fresno and was the President of Duncan Ceramics, a successful local business, for more than thirty years.*

*Vice President Caprioglio announced he was at the opening of the "Walk of Honor" at the Veterans Administration Hospital on November 14, 2015. The beautiful memorial was meant to honor all veterans in the Central Valley. He noted the memorial currently listed more than 1,085 veterans, including more than 40 who were killed in action. Vice President Caprioglio said the Walk of Honor would continue to expand and he hoped to one day add the names of his brother and father. He encouraged all to visit the memorial at the Veterans Administration Hospital at Fresno Street and Shields Avenues.*

*Vice President Caprioglio congratulated Aetna Insurance on receiving part of 3.7 million dollar state tax credits from the Governor's Office of Business and Economic Development (GO-Biz). Thanks to the credits, Aetna will be able to hire additional employees and create 225 new jobs in the City.*

*Vice President Caprioglio reported he attended the ribbon cutting at Inspiration Park.*

*Vice President Caprioglio congratulated the Matoian family for opening a*

*new OK Produce facility in Fresno. He noted OK Produce was a great produce distribution company which had been a valuable local business for four generations.*

*Councilmember Soria reported her attendance at the ribbon cutting of Inspiration Park. She thanked Councilmember Brandau and Vice President Caprioglio for attending and sharing the moment. Councilmember Soria also thanked those that made the park opening possible: Resources for Independence, Central Valley; the Boys and Girls Club; City of Fresno PARCS Department; the office of the Mayor; former Councilmember Blong Xiong; Fresno Police Officers Association and Fresno Firefighters. She noted that approximately 1,200 people were in attendance and the event was a success.*

*Councilmember Soria reported she held a community meeting to update the members of her district about Van Ness Boulevard trees and median island. She thanked Assistant City Manager Smith and staff from the Public Works Department for attending and for all their hard work on things like the drip irrigation installation. She noted that their efforts were keeping the median island beautiful.*

*Councilmember Soria thanked Facilities Manager Sam Laird and his staff for lighting City Hall purple as part of Pre-Maturity Day Walk. First Five Fresno County was a partner for the walk.*

*Councilmember Soria reported that Self Help Credit Union would open today. She noted the entity would provide an alternative to pay day lenders for communities in need. Councilmember Soria stated she and President Baines were on the Self Help Credit Union Board and that Councilmember Quintero was a former boardmember.*

*Councilmember Brandau reported his attendance at the ribbon cutting for Inspiration Park. He noted the park was an amazing facility that was designed so that children with physical needs could enjoy the park. He also said the park was there for adults with physical needs that may want to enjoy the facility with their children or grandchildren. He noted that former Councilmember Blong Xiong took part in several votes to make sure the park was made a reality.*

*Councilmember Brandau commented on the terrorist attacks that took place in Paris, France on November 13, 2015. He placed a small French flag at*

*his seat, "in recognition of the commitment to our friends and allies around the world that suffer these types of tragedies."*

*Councilmember Quintero reported he would not be in attendance for the 5:30 P.M. Scheduled Hearing regarding the Development Code. He stated he would read the transcripts. Councilmember Quintero asked the City Attorney when he would be able to add amendments to the Development Code concerning mobile vendor checks and balances. City Attorney Sloan replied that the Bill would only be introduced at the current meeting and adoption was planned for December 3, 2015. He stated the administration or another Councilmember could offer his amendments at the current meeting. City Attorney Sloan noted that if a substantial change was introduced on December 3, 2015 then that meeting would be treated as an introduction and adoption would occur the following week. He also noted Council had the option to meet later to clean up certain language and his changes could be added at that time. Councilmember Quintero stated he would have the suggested additions after his final meeting with the mobile vendor group.*

## **APPROVE AGENDA**

*City Clerk Spence announced that City Council items 3-A (File ID# 15-1047) and 3-C (File ID# 15-1060) had been removed from the agenda by staff.*

*Councilmember Soria motioned to table City Council Item 3-B (File ID# 15-1053) until after adoption of the Development Code update. Vice President Caprioglio seconded the motion which passed by a vote of 4 to 3 with Councilmembers Brand, Brandau and Olivier voting "no."*

*APPROVED AS AMENDED*

**On motion of President Baines III, seconded by Councilmember Soria, the agenda was adopted as amended. The motion carried by the following vote:**

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

## **5. SCHEDULED COUNCIL HEARINGS AND MATTERS**

### **2:00 P.M.**

[ID#15-929](#) HEARING - Regarding the vacation of the Lorena-Geary Alley, E. Geary Avenue, and the Geary-Florence Alley, all between S.

Plumas Street and S. Walnut Street (Council District 3)

1. RESOLUTION - Ordering the vacation of the Lorena-Geary Alley, E. Geary Avenue, and the Geary-Florence Alley, all between S. Plumas Street and S. Walnut Street

*The above hearing was called to order at 2:37 P.M. Public Works Assistant Director Benelli introduced the item to Council.*

*Upon call, no member of the public chose to address Council regarding this item.*

*The hearing was closed at 2:38 P.M.*

**RESOLUTION 2015-203 ADOPTED**

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

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

**1. CONSENT CALENDAR**

APPROVAL OF THE CONSENT CALENDAR

**On motion of Vice President Caprioglio, seconded by President Baines III, the CONSENT CALENDAR was hereby adopted by the following vote:**

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

**1-A**    [ID#15-950](#)    Authorize the City Manager or designee to execute a grant deed for the sale of City of Fresno owned vacant property (APN 478-163-16T), located at the intersection of E. Lorena Avenue and S. Railroad Avenue, to the State of California for the amount of \$103,000. (Council District 3)

*APPROVED*

**The above item was approved on the Consent Calendar.**

**1-B**    [ID#15-951](#)    Authorize the City Manager or designee to execute a grant deed for the sale of City of Fresno owned vacant property (APN 478-102-19T and 478-102-20T), located at the southeast corner

of Cherry Avenue and Railroad Avenue, to the State of California for the amount of \$107,000. (Council District 3)

*APPROVED*

**The above item was approved on the Consent Calendar.**

- 1-C**     [ID#15-954](#)     Actions related to the sale of a small abandoned water well parcel:
1. Adoption of a finding of no possibility of significant effect pursuant to CEQA Guidelines Section 15061(b)(3) and Categorical Exemption pursuant to CEQA Guidelines Section 15312 for the sale of a small abandoned water well parcel.
  2. The sale of a small abandoned water well parcel know as APN 417-061-15T east of 5336 N. Roosevelt Avenue, to adjacent property owner William Urrutia and authorization to give the Public Works Director, or his designee, authority to sign all documents related to the sale of the property. (Fresno County)

*APPROVED*

**The above item was approved on the Consent Calendar.**

- 1-D**     [ID#15-969](#)     Approve the acquisition of 37,505 square feet of easement on property owned by J Beast, LP, a California Limited Partnership in the amount of \$62,600 (APN 330-021-24S & 25) for the construction of new sanitary sewer lines within E. Avenue, Orange Avenue, Cedar Avenue, Malaga Avenue and Central Avenue. (Council District 3)

*APPROVED*

**The above item was approved on the Consent Calendar.**

- 1-E**     [ID#15-986](#)     Reject all bids for the Cultural Arts District Park Project (Bid File No. 3384) (Council District 3)

*APPROVED*

**The above item was approved on the Consent Calendar.**

- 1-F [ID#15-100](#)  
[1](#) RESOLUTION - Of Intention to annex Final Tract Map No. 6036, Annexation No. 63, to the City of Fresno Community Facilities District No. 11 (west side of N. Grantland Avenue between W. Shaw and Barstow Avenues) (Council District 2)

*RESOLUTION 2015-204 ADOPTED*

**The above item was approved on the Consent Calendar.**

- 1-G [ID#15-101](#)  
[1](#) \*\*\*RESOLUTION - Authorizing City's Parks, After School, Recreation and Community Services (PARCS) Department to enter into an agreement with the California Department of Housing and Community Development to receive a Housing-Related Parks Program (Proposition 1C) Grant (DISTRICTS 3,4,and 5)

*RESOLUTION 2015-205 ADOPTED*

**The above item was approved on the Consent Calendar.**

- 1-H [ID#15-101](#)  
[3](#) Approve a consultant services agreement with The Solís Group for an amount not to exceed \$132,750 to provide Labor Compliance Monitoring Services for the Southeast Surface Water Treatment Facility project

*APPROVED*

**The above item was approved on the Consent Calendar.**

- 1-I [ID#15-101](#)  
[8](#) Approve a substitution of a listed subcontractor, Penguin Engineering for Emergency Generator Upgrade at City Hall Project - Project ID SC00003 (Council District 3)

*APPROVED*

**The above item was approved on the Consent Calendar.**

- 1-J [ID#15-102](#)  
[1](#) Approval of a three year agreement with Baptist Temple Church for lead agency responsibility for recreational programming at Granny's Park (Council District 7)

*APPROVED*

**The above item was approved on the Consent Calendar.**

- 1-K [ID#15-102](#)  
[2](#) Actions pertaining to the sale of excess property at L and Stanislaus Streets:  
1. Adopt a finding of a categorical exemption pursuant to

Section 15332/Class 32 of CEQA Guidelines

2. Approve a Disposition and Development Agreement with Upside Enterprises, LLC, for property located on 1517 L Street (466-142-15T) and 2139 Stanislaus (466-142-14T)

*APPROVED*

**The above item was approved on the Consent Calendar.**

- 1-L [ID#15-102](#) Approve appointment of Esther Postgilione to the Bicycle and Pedestrian Advisory Committee (BPAC)  
[7](#)

*APPROVED*

**The above item was approved on the Consent Calendar.**

- 1-M [ID#15-961](#) Approve the acquisition of 39,536 square feet of easement on property (APN 330-021-03) owned by Joe Rebella Jr. and Kathleen R. Rebella in the amount of \$66,700 for the construction of new sanitary sewer lines within East Avenue, Orange Avenue, Cedar Avenue, Malaga Avenue and Central Avenue. (Council District 3)

*APPROVED*

**The above item was approved on the Consent Calendar.**

- 1-N [ID#15-100](#) BILL - (For introduction) - Amending Section 2-1105, Subsections (a) and (b) of the Fresno Municipal Code to revise the Local Campaign Contribution  
[7](#)

*BILL B-42 INTRODUCED AND LAID OVER*

**The above item was approved on the Consent Calendar.**

- 1-O [ID#15-101](#) \*\*\*BILL NO. B-41 - (Intro. 11/5/15) (For adoption) - Adding Section 11-112 to Article 1, Chapter 11 of the Fresno Municipal Code, entitled "Model Water Efficient Landscape Ordinance."  
[2](#)

*ORDINANCE 2015-37 ADOPTED*

**The above item was approved on the Consent Calendar.**

## **CONTESTED CONSENT CALENDAR**

*No items were moved to the Contested Consent Calendar.*



## **2. GENERAL ADMINISTRATION**

- 2-A**     [ID#15-993](#)     Award a construction contract in the amount of \$158,766,000 to WM Lyles Company for the City of Fresno's 80-Million Gallon Per Day Southeast Water Treatment Facility, Bid File No. 3369 (Citywide)

*The above item was introduced to Council by Department of Public Utilities (DPU) Professional Engineer Knapp. DPU Director Esqueda also spoke on this item.*

*APPROVED*

**On motion of Councilmember Brand, seconded by Councilmember Brandau, the above item was approved. The motion carried by the following vote:**

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

- 2-B**     [ID#15-980](#)     Approve Fourth Amendment to the Professional Engineering Consulting Services Agreement with Carollo Engineers, Inc., in the amount of \$8,897,052 to provide Construction Phase and General Construction Contract Administration Services for the City of Fresno's 80-million gallon per day Southeast Surface Water Treatment Facility (Citywide).

*The above item was introduced to Council by DPU Director Esqueda.*

*APPROVED*

**On motion of Councilmember Soria, seconded by Councilmember Brand, the above item was approved. The motion carried by the following vote:**

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

- 2-C**     [ID#15-101](#)     Actions Pertaining to the Recycled Water Transmission Main, Southwest Quadrant, Project SW1B (Bid File 3413) (Council District 3 and Fresno County)  
[0](#)
1. \*\*\*RESOLUTION - 20th amendment to the Annual Appropriation Resolution (AAR) No. 2015-104 appropriating \$19,348,700 for the Southwest Recycled Water Distribution System (Requires 5 affirmative votes)

2. Award a construction contract in the amount of \$9,341,491 to Garney Construction of Livermore, California
3. Award a professional services contract to BSK Associates in the amount of \$174,519 for materials testing and Special Inspection for Project SW1A
4. Award a professional services contract to BSK Associates in the amount of \$189,960 for materials testing and Special Inspection for Project SW1B

*The above item was introduced to Council by DPU Supervising Professional Engineer Norgaard.*

*Mr. Norgaard read the following correction into the record: under the "Local Preference" section of the staff report, the last two sentences should be replaced with: "Local preference was not implemented for the professional services contract but the lowest proposer, BSK, is a local business."*

**RESOLUTION 2015-206 ADOPTED**

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

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

Councilmember Brand exited the Council Chamber at 2:49 P.M. and returned at 2:55 P.M.

- 2-D**    [ID#15-102](#)    \*\*\*RESOLUTION - 21st amendment to the Annual Appropriation Resolution (AAR) No. 2015-104 to appropriate \$5,081,900 for operating programs and previously approved capital improvement projects in the Public Works Department (Citywide) (Requires 5 affirmative votes)

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

**RESOLUTION 2015-207 ADOPTED**

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

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

**Absent:** 1 - Brand

- 2-E [ID#15-917](#) Authorize the Fire Chief or designee to execute a contract with Pinnacle Training Systems for the Annual Wellness, Fitness and Physicals Program.

*The above item was introduced to Council by Deputy Fire Chief Semonious. City Manager Rudd also spoke on this item.*

APPROVED

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

**Aye:** 4 - Baines III, Caprioglio, Quintero and Soria

**No:** 3 - Brand, Brandau and Olivier

### **3. CITY COUNCIL**

- 3-A [ID#15-104](#) RESOLUTION - Encouraging Congress and the President of the United States to pass Comprehensive Immigration Reform  
[7](#)

*The above item was removed from the agenda.*

- 3-B [ID#15-105](#) RESOLUTION - To initiate an amendment to Fresno General Plan Policy RC-9-C pursuant to Fresno Municipal Code Section 12-607-A  
[3](#)

*The above item was tabled until after the adoption of the Development Code.*

- 3-C [ID#15-106](#) BILL - (for introduction) - Adding Article 4.15 to Chapter 12 of the Fresno Municipal Code relating to the exemption of development impact fees for the replacement or reconstruction of existing commercial structures  
[0](#)

*The above item was removed from the agenda.*

### **4. CLOSED SESSION**

*The City Council met in closed session in Room 2125 from 2:56 P.M. to 3:03 P.M. to discuss the following:*

- [ID#15-104](#) CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION - Government Code Section 54956.9, subdivision (d)(1)  
[4](#)  
1. Minerva Espinoza-Romero, et al., v. Rene Rodriguez, City of

Fresno; Fresno County Superior Court Case No.  
14CECG02288 (Lead Case)

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

RECESSED 3:03 P.M. TO 5:46 P.M.

*As previously announced, Councilmember Quintero did not return to the Council Chamber following the 3:03 P.M. recess and was absent the remainder of the meeting.*

## **UNSCHEDULED COMMUNICATION**

*The following member(s) of the public addressed Council during Unscheduled Communication:*

*Sheila Anderson - discussed enforcement of trash bin laws.*

*Doug Richert of the Downtown Fresno Coalition - discussed Fulton Mall bids and non compliance with previously added conditions.*

## **5. SCHEDULED COUNCIL HEARINGS AND MATTERS** **CONTINUED**

### **5:30 P.M.**

[ID#15-103](#)  
[2](#) CONTINUED HEARING to consider Text Amendment Application No. TA-15-001, Plan Amendment Application No. A-15-003, related environmental finding for adoption of the Citywide Development Code, and four resolutions related to finalization and implementation of the Citywide Development Code. Text Amendment Application No. TA-15-001 proposes to add Chapter 15 to the Fresno Municipal Code, repeal Chapter 12, Articles 1-4, 5, 6, 9-14, 17, 18 and 22, repeal Chapter 10, Article 12; and amend Chapter 1, Section 1-203, Chapter 9, Articles 6, 9-2602 and 1; Chapter 10, Articles 2 and 3; and Chapter 13, Article 3. Plan Amendment Application No. A-15-003 proposes to update tables that reference the Citywide Development Code in Chapter 3: Urban Form, Land Use, and Design (Tables 3-1 and 3-3); Chapter 11: Housing Element Consistency (Tables 11-3, 11-4, 11-5, 11-7, 11-8, 11-9, 11-10, 11-11, 11-12 and 11-13); and Chapter 12: Implementation (Table 12-1).

(Public testimony closed)

1. ADOPT the environmental findings of Environmental Assessment No. TA-15-001/A-15-003, an Addendum to Final Master Environmental Impact Report SCH No. 2012111015 for the Fresno General Plan and Citywide Development Code pursuant to CEQA Guidelines Section 15162 and 15164;
2. BILL - (For Introduction) - Approving Text Amendment Application No. TA-15-001, including all revisions recommended by Planning Commission on September 30, 2015 and additional revisions made by staff enumerated in Exhibit D, adding Chapter 15, Citywide Development Code, to the Fresno Municipal Code, repealing Chapter 12, Articles 1-4, 5, 6, 9-14, 17, 18 and 22, repealing Chapter 10, Article 12; and amending Chapter 1, Section 1-203; Chapter 9, Articles 6, 9-2602 and 1; Chapter 10, Articles 2 and 3; and Chapter 13, Article 3;
3. RESOLUTION - Establishing the Zoning Designation Translation Table for the interim period between adoption of the Citywide Development Code and adoption of the corresponding zoning map;
4. RESOLUTION- Approving Plan Amendment Application No. A-15-003, updating tables in the Fresno General Plan that reference the Citywide Development Code in Chapter 3: Urban Form, Land Use, and Design (Tables 3-1 and 3-3); Chapter 11: Housing Element Consistency (Tables 11-3, 11-4, 11-5, 11-7, 11-8, 11-9, 11-10, 11-11, 11-12 and 11-13); and Chapter 12: Implementation (Table 12-1).
5. RESOLUTION - Authorizing the City Clerk to make Numerical Classification and Cross Referencing Corrections in the Fresno Municipal Code in coordination with the City Attorney's Office;
6. RESOLUTION - Authorizing the Development and Resource Management Director or her designee to update the text, policies, maps, tables and exhibits contained in the Citywide Development Code to reflect the final action taken by the City Council, to the extent that such updates are necessary to maintain consistency.

*The above continued hearing was called to order at 5:54 P.M. The public comment portion of the hearing was held at the previous meeting on November 12, 2015 and was closed at that time. Development and Resources Management ("DARM") Director Clark introduced this item to Council. Mayor Swearingin and City Attorney Sloan also spoke on this*

item.

*President Baines clarified that Councilmembers would first make motions to amend the Development Code and if they were approved, they would be included in the final motion to approve the Development Code.*

*Councilmember Brand provided a handout highlighting his proposed changes in yellow (now attached to FILE ID# 15-1032). Councilmember Brand motioned to:*

*1. Adopt the staff recommendation as printed in the Agenda ID# 15-1032 excepting section 15-1004E, 15-1005, 15-1104F, 15-1105 and incorporating additional revisions made by staff enumerated in Exhibit D; and*

*2. Make the following amendments:*

*a. Revise section 15-904-B 7, as amended, to read: "A front-loaded garage door, the width of which occupies less than 50 percent of the area of the front facade", and*

*b. Revise Section 15-904-B 8, as amended, to read: "A design in which no exterior front street-facing wall...", and*

*c. Revise Section 15-904-B 9, as amended, to read: "Stone or brick cladding accounts for no less than 25 percent of the cladding of ground floor front street facing facades excluding windows, doors and garages"; and*

*d. Revise Section 15-904-B 11, as amended, to read: "Shutters, lintels, sills, awnings, decorative trim or similar architectural treatments on front street facing windows and doors"; and*

*e. Revise Section 15-2609-C-2, to read "Maximum Sign Areas Per Sign. In the case of a CUP, this area can be increased at the discretion of the Review Authority."*

*f. Revise Section 15-2609-C-3, to read: "Height Limit. Eight feet when located within a required front or street side setback, 10 feet otherwise. In the case of a subdivision with a CUP, this height can be increased at the discretion of the Review Authority."; and*

*g. Revise Section 15-4108-K-1, as amended, to read: "The combined*

*length of all cul-de-sacs and other dead -end streets in any subdivision shall not exceed 35 percent..."; and,*

*h. Revise Section 15-4108-K-2, as amended, to read: "Cul-de-sacs and dead-end streets may not exceed 600 feet unless there are unforeseen issues, topographical challenges, or other opportunities to promote pedestrian connectivity such as access to another street or trail"; and,*

*i. Revise Section 15-4108-M-1-a, as amended, to read: "an adjacent street with a sidewalk"; and,*

*j. Revise Section 15-4112-B, as amended, to read: "Park Frontage. A minimum of 50 percent of the perimeter of any public park must abut a street; external trail; internal lit trail that connects to an external trail or sidewalk; sidewalk; or similar facility that is accessible and visible to people traversing the neighborhood."*

*3. Direct staff to bring back a revised Zoning Map within 30 days of the effective date of this ordinance; and*

*4. Direct staff to solicit additional input from multifamily developers and architects and bring back final recommendations for Sections 15-1004E, 15-1005, 15-1104F and 15-1105 within 30 days.*

*The motion (1, 2 a through 2 j, 3, and 4) was seconded by Councilmember Olivier and passed by a vote of 6 to 0 with Councilmember Quintero absent.*

*Councilmember Brand motioned to add section 15-6102-E(3) which would allow development to proceed after the the Concept Plan had been received by the City if no general plan amendment was required. The motion was seconded by Councilmember Olivier and passed by a vote of 6 to 0 with Councilmember Quintero absent.*

*Councilmember Brand motioned to allow a member of the public, the administration, or a Councilmember to return to Council within 180 days with an amendment to address something that may have been missed, or to address an unforeseen consequence of adoption of the new Development Code, without payment of a fee. The 180 day period would commence from the effective date of January 3, 2016. The motion was seconded by Councilmember Olivier and passed by a vote of 6 to 0 with Councilmember Quintero absent.*

*For the record, Councilmember Brandau asked Director Clark the following question regarding legal non-conforming uses: If a person has a legal non-conforming use and a fire burns more than 50 percent of the building, does the city prohibit the non-conforming use from being re-established? Director Clark stated that section 15-405 (f) of the non-conforming section of the code would allow the structure to be rebuilt exactly as it was prior to the fire so long as it is rebuilt within one year of the destruction and permits are obtained.*

*For the record, Councilmember Brandau asked Director Clark the following question regarding legal non-conforming uses: Could legal non-conforming uses be passed down to family members or sold, so long as they remained the legal non-conforming use without interruption? Director Clark replied that legal non-conforming uses could be passed down and sold and added that they could continue indefinitely so long as they continued to operate under the rules they were established under.*

*For the record, Councilmember Brandau asked Director Clark the following question regarding legal non-conforming uses: Could a legal non-conform use expand its operation and could the building be expanded? Director Clark replied that the expansion of the use was governed by 15-404(b) and could not be done without a Conditional Use Permit. In order to expand the building, Director Clark stated certain findings would need to show the resulting use and project design would either: reduce current adverse impacts on adjacent properties and or the general public; would aid in the preservation of a historic resource, or; that the expansion of the use or enlargement of a structure housing and non-conforming use is necessary to comply with a requirement imposed by law for the operation of that use including but not limited to regulations for disabled access or seismic retrofit.*

*Councilmember Brandau motioned to add section 15-2201-H regarding inclusionary zoning as follows: "Nothing in this Article shall be construed as a provision for inclusionary zoning where an applicant is required to provide housing affordable to moderate, low and very low income households as a condition of approval for a residential development. Furthermore, the Council shall not adopt a provision for inclusionary zoning, as described above, unless and until the Fresno General Plan adopted in December 2014 is updated and superseded by a new General Plan." The motion was seconded by Councilmember Brand and passed by a vote of 4 to 2 with President Baines and Councilmember Soria voting "no" and Councilmember*



*Quintero absent.*

*Councilmember Brandau motioned to add language to Article 59, Planned Development Permits, that provides for a density transfer procedure that duplicates the current procedure set out in sections 12-403-B(44) and 12-304-B(23) of the Fresno Municipal Code. The motion was seconded by Councilmember Olivier and passed by a vote of 6 to 0 with Councilmember Quintero absent.*

*For the record, Councilmember Soria asked for clarification on Fair and Proportional Payments and whether grants would be the method the City would use to pay for the infrastructure needs of Disadvantaged Unincorporated Communities after a SB 244 analysis. Director Clark replied that annexation procedures sub section 6104(c)(3) would not exclude any type of financing that might be available and could include grants, or partnering by the county or other state agency. Director Clark clarified that Revenue Neutrality separated Fair and Proportional Payments and Disadvantaged Unincorporated Communities into separate sections.*

*For the record, Councilmember Soria stated that mobile food vendor amendments may be forthcoming as previously stated by Councilmember Quintero.*

*Councilmember Soria motioned to add language within the Condo Conversion approval process so that the developer, owner or applicant must file the required relocation assistance plan and a summary of all assistance provided demonstrating compliance with required relocation assistance plan prior to new Condo occupancy. The motion was seconded by President Baines and passed by a vote of 6 to 0 with Councilmember Quintero absent.*

*Councilmember Soria motioned that in the event of a conflict between the Development Code and California Health and Safety Code section 17021.6, relating to agricultural land use designations for employee housing, the Health and Safety Code would prevail. The motion was seconded by President Baines and passed by a vote of 6 to 0 with Councilmember Quintero absent.*

*Councilmember Olivier motioned to allow electric fences in all non-residential zones with corresponding changes made pursuant to his handout (now attached to FILE ID# 15-1032). The motion was seconded by Councilmember Brand and passed by a vote of 4 to 2 with President Baines*

*and Councilmember Soria voting "no" and Councilmember Quintero absent.*

*Councilmember Olivier motioned to remove the 500 foot buffer around Bus Rapid Transit stations, only as it relates to service stations, found in Table 15-1102, Use Regulations, footnote 12. The motion was seconded by Councilmember Brandau and passed by a vote of 4 to 2 with Vice President Caprioglio and Councilmember Soria voting "no" and Councilmember Quintero absent.*

*Vice President Caprioglio motioned to incorporate the existing medical marijuana dispensary language into the updated Development Code. The motion was seconded by President Baines and failed by a vote of 3 to 3 with President Baines, Councilmember Olivier and Councilmember Soria voting "no" and Councilmember Quintero absent. President Baines clarified that he seconded the motion for purposes of allowing discussion on the topic.*

*President Baines clarified with Director Clark that there would be an operating procedure in place for discretionary routing of by-right uses to Council Offices. Director Clark acknowledged that the procedure would be implemented.*

*President Baines motioned to amend section 15-404-E(2), regarding non-conforming uses, to read as follows: "Non-Residential Districts. A Legal Non-Conforming use shall not be re-established in any structure in a Non-Residential District if such Legal Non-Conforming use has ceased for a consecutive 12-month period within 5 years of the effective date of this Code. Once the five year period from the effective date of this Code has passed, a Legal Non-Conforming Use shall not be re-established in any structure in a Non-Residential District if such Legal Non-Conforming use has ceased for a consecutive period of 90 days or more." The motion was seconded by Councilmember Soria and passed by a vote of 5 to 1 with Councilmember Olivier voting "no" and Councilmember Quintero absent.*

*The above hearing concluded at 9:24 P.M.*

**BILL B-43 INTRODUCED AS AMENDED AND LAID OVER  
RESOLUTION 2015-208 ADOPTED  
RESOLUTION 2015-209 ADOPTED  
RESOLUTION 2015-210 ADOPTED  
RESOLUTION 2015-211 ADOPTED**

**On motion of Councilmember Brand, seconded by President Baines III,**

the above item was approved as amended. The motion carried by the following vote:

**Aye:** 5 - Baines III, Caprioglio, Brand, Olivier and Soria

**No:** 1 - Brandau

**Absent:** 1 - Quintero

**ADJOURNMENT**

*Adjourned in the memory of Robert Duncan at 9:24 P.M.*

These minutes were approved by unanimous vote of the City Council, with Councilmember Soria absent, during the December 3, 2015 Council Meeting.