

City Council Minutes

May 15, 2014

The City Council met in regular session at the hour of 1:30 P.M. in the Council Chamber, City Hall, on the day above written.

1:33 P.M. ROLL CALL

Present:	Oliver Baines III	Acting Council President - arrived shortly thereafter
	Lee Brand	Councilmember - arrived shortly thereafter
	Paul Caprioglio	Councilmember
	Clinton Olivier	Councilmember
	Sal Quintero	Councilmember
	Blong Xiong	Councilmember
	Steve Brandau	Council President

Also Present:	Bruce Rudd	City Manager
	Renena Smith	Assistant City Manager
	Doug Sloan	City Attorney
	Yvonne Spence	City Clerk
	Todd Stermer	Assistant City Clerk

Invocation by Minister Matt Phillips of the Woodward Park Church of Christ

Pledge of Allegiance to the Flag

Ceremonial Presentations:

Proclamation of American Lung Association's "NATIONAL WOMEN'S LUNG HEALTH WEEK" – Council President Brandau – **Read and presented.**

Proclamation of "FUGMAN ELEMENTARY DAY" – Councilmember Brand – **Read and presented.**

Proclamation of "RESERVE POLICE OFFICER JOE L. INFAUSTO DAY" – Acting President Baines – **Read and presented.**

Proclamation of "INCREASING EXPORT OPPORTUNITIES IN PARTNERSHIP WITH THE CENTER FOR INTERNATIONAL TRADE DEVELOPMENT DAY" – Council President Brandau – **Read and presented.**

Approve Joint Meeting minutes with the City of Clovis of April 29, 2014

Action Taken: APPROVED AS SUBMITTED

Motion / Second: Councilmember Caprioglio / Councilmember Brand
Ayes: Baines, Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau
Noes: None

Approve Council minutes of May 1, 2014

Action Taken: APPROVED AS AMENDED

Councilmember Caprioglio motioned to approve the minutes with the following correction to be added to the end of the first sentence under "Councilmember Reports and Comments" on page two; "...since they were delivered at the very last minute."

Motion / Second: Councilmember Caprioglio / President Brandau
Ayes: Baines, Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau
Noes: None

Councilmember Reports and Comments

Action Taken: MADE

Councilmember Caprioglio requested the meeting be adjourned in memory of George Salwasser Jr. whose life was tragically ended last Thursday on his ranch near Biola. Councilmember Caprioglio remembered Mr. Salwasser Jr. as a great father and family man, an excellent farmer and a friend to all and stated that he would be missed.

President Brandau asked City Manager Rudd for an update on the study concerning the landfill situation with the City and County of Fresno. Mr. Rudd replied that the Board of Supervisors approved the contract to conduct the study two weeks ago and noted the study and negotiations would be completed within four to six months. Mr. Rudd added that the City expressed to Mr. Navarrete the City's expectation that the current rate would be the ongoing rate when the contract for landfill service expires, in approximately six weeks. Mr. Rudd concluded by stating the City would continue to look at all options.

Approve Agenda

Action Taken: APPROVED AS AMENDED

City Clerk Spence announced that: the Maritime Day Proclamation was removed from the agenda and moved to May 22, 2014; staff would read corrections into the record for General Administration items 2E, regarding the construction contract for the emergency generator upgrade at City Hall, and 2H, regarding the Fresno / Clovis Regional Wastewater Reclamation Facility Headworks building coating repair and stop plate installation.

Motion / Second: Councilmember Caprioglio / Councilmember Xiong
Ayes: Baines, Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau
Noes: None

Adopt Consent Calendar

Action Taken: APPROVED

The following member of the public spoke on items in the Consent Calendar: Barbara Hunt (1A, 1D, 1E, 1F)

Motion / Second: Councilmember Caprioglio / Councilmember Brand
Ayes: Baines, Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau
Noes: None

1. **CONSENT CALENDAR**

- A. * **RESOLUTION** - 44th amendment to the Annual Appropriation Resolution (AAR) No. 2013-98 appropriating \$27,000 of Older Americans Act Title III C1 grant funds from the Fresno Madera-Area Agency on Aging (FMAAA) for the Senior Hot Meals (SHM) program **(Requires 5 affirmative votes)** – PARCS
Action Taken: RESOLUTION 2014-73 ADOPTED
- B. Award a contract in the amount of \$245,865 to Zim Industries to furnish and install 16-inch liner and gravel pack to rehabilitate the potable water well at Pump Station 17, located at 761 E. Cornell Avenue - Bid File 3300 **(Council District 1)** - Department of Public Utilities
Action Taken: AWARDED
1. Adopt finding of a Categorical Exemption per staff determination, pursuant to Section 15301 of the CEQA Guidelines
Action Taken: ADOPTED
- C. Approve the partial acquisition of 0.85 acres of a parcel of property in the amount of \$92,800, owned by Rancho Amboy, a limited partnership, for the construction of Veterans Boulevard overcrossing near Golden State and Bullard Avenue **(Council District 2)** - Public Works Department
Action Taken: APPROVED
- D. * **RESOLUTION** - 45th amendment to the Annual Appropriation Resolution (AAR) No. 2013-98 appropriating \$200,000 from the Systems Replacement Fund to replace hardware that is past its end of service life (EOSL) **(Requires 5 affirmative votes)** – Information Services Department
Action Taken: RESOLUTION 2014-74 ADOPTED
- E. Actions pertaining to a grant award for \$117,566 from the State Homeland Security Grant Program, through the County of Fresno - Fire Department
1. **RESOLUTION** - Authorizing the application for and acceptance of Fiscal Year13 Cycle U.S. Department of Homeland Security/Office of Domestic Preparedness “State Homeland Security Grant Program” funding, through the County of Fresno
Action Taken: RESOLUTION 2014-75 ADOPTED
2. * **RESOLUTION** - 43rd amendment to the Annual Appropriation Resolution (AAR) No. 2013-98 appropriating \$18,200 from the State Homeland Security Grant Program to the Fire Department to provide equipment and support of the community emergency response team **(Requires 5 affirmative votes)**
Action Taken: RESOLUTION 2014-76 ADOPTED
- F. **BILL** - **(For introduction)** - 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) – Finance Department
Action Taken: BILL B- 22 INTRODUCED AND LAID OVER

2. **GENERAL ADMINISTRATION**

A. Actions pertaining to IUOE, Stationary Engineers Local 39 – Personnel Services Department

1. * Adopt a Successor MOU between the City of Fresno and IUOE, Stationary Engineers, Local 39 (non-supervisory blue collar employees – Unit 1)

Action Taken: ADOPTED

2. * Adopt a Side Letter of Agreement between the City of Fresno and IUOE, Stationary Engineers, Local 39 (Non-supervisory blue collar employees – Unit 1) on pensions for new employees

Action Taken: ADOPTED

The following members of the public spoke on this item: Marina Magdaleno and Barbara Hunt.

Motion / Second: Councilmember Brand / Councilmember Xiong
Ayes: Baines, Brand, Caprioglio, Quintero, Xiong,
Noes: Olivier, Brandau

Councilmember Olivier exited the Council Chamber at 2:45 P.M.

B. Submission and acceptance of City of Fresno Comprehensive Annual Financial Report (CAFR) and Single Audit for Fiscal Year 2013 – Finance Department

Action Taken: SUBMITTED AND ACCEPTED

The following member of the public spoke on this item: Barbara Hunt.

Assistant Controller Bradley noted the following correction to the staff report: the emergency reserve noted on page three of the staff report reflected the 2011 to 2012 figure; the current and correct figure is 1.9 million dollars up from 1.4 million dollars.

Motion / Second: Councilmember Brand / Councilmember Xiong
Ayes: Baines, Brand, Caprioglio, Quintero, Xiong, Brandau
Noes: None
Absent: Olivier

Councilmember Olivier entered the Council Chamber at 2:53 P.M.

Councilmember Baines exited the Council Chamber at 3:20 P.M.

J. Actions pertaining to the acquisition of CVP Unreleased Restoration Flows and transfer of said Unreleased Restoration Flows to the Orange Cove Irrigation District to assist in mitigation of severe drought conditions – Department of Public Utilities

1. Adopt findings that the proposed agreements are not a “project” within the meaning of Public Resources Code Section 21803 (CEQA Guidelines section 15378), that the proposed agreements also statutorily exempt from CEQA under Public Resources

Code Section 21080(b)(4) due to the proclamation of a qualifying state of emergency related to a drought, and NEPA compliance is complete based upon the United States Bureau of Reclamation's adopted "finding of no significant impact" covering the Recirculation of Recaptured Water for Water Year 2014-2017 San Joaquin Restoration Flows, "finding of no significant impact" covering the Accelerated Water Transfer Program for Friant Division and Cross Valley Central Valley Project Contractors, 2011-2015, and "finding of no significant impact" covering the Increase in Quantity for the Friant Division and Cross Valley Accelerated Water Transfer Program, 2011-2015

Action Taken: ADOPTED

2. * **RESOLUTION** - Authorizing the Department of Public Utilities to execute the "Agreement between the United States Bureau of Reclamation and the City of Fresno for delivery of banked unreleased restoration flows, and execute the "Agreement for Transfer and Exchange of Water" between the Orange Cove Irrigation District and the City of Fresno in substantially the form attached

Action Taken: RESOLUTION 2014-77 ADOPTED

The following members of the public spoke on this item: Fergus Morrissey of the Orange Cove Water District and Barbara Hunt.

Motion / Second: Councilmember Caprioglio / Councilmember Brand
Ayes: Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau
Noes: None
Absent: Baines

- C. **RESOLUTION** - Reallocating \$700,000 from the Property/Liability self-insurance contingency account to the refunds and claims account and outside legal services account – Personnel Services Department

Action Taken: RESOLUTION 2014-78 ADOPTED

The following members of the public spoke on this item: Barbara Hunt.

Motion / Second: Councilmember Brand / Councilmember Caprioglio
Ayes: Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau
Noes: None
Absent: Baines

- D. **RESOLUTION** – To submit grant applications for up to \$1,250,000 to the State of California Department of Transportation Active Transportation Program (ATP), and authorizing the execution of documents by the City Manager, Public Works Director, or designees – Public Works Department

Action Taken: RESOLUTION 2014-79 ADOPTED

Motion / Second: Councilmember Quintero / Councilmember Olivier
Ayes: Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau
Noes: None
Absent: Baines

Councilmember Baines entered the Council Chamber at 3:39 P.M.

- E. Actions pertaining to an award of a construction contract to California Building Evaluation & Construction, Inc. of Buena Park, California in the amount of \$736,360 for the emergency generator upgrade at Fresno City Hall (bid file No. 3227) (**Council District 3**) – Public Works Department
1. Adopt finding of a Categorical Exemption per staff determination, pursuant to Section 15301(c) of the CEQA Guidelines
Action Taken: CONTINUED 30 DAYS
 2. Award a construction contract with California Building Evaluation & Construction, Inc. of Buena Park, California in the amount of \$736,360 for the emergency generator upgrade at Fresno City Hall
Action Taken: CONTINUED 30 DAYS

Public Works Project Manager Bernard read the following correction into the record: “Staff has performed a preliminary environmental assessment of this project and has determined that it falls within the Categorical Exemption set forth in CEQA Guidelines Section 15301(a) (Existing Facilities) This exemption applies because this project involves the replacement of the existing generator with a new generator. Staff determined under the CEQA Guidelines that the project fits within the definition of existing facilities in 15301(a) Class 1, as Categorically Exempt from further CEQA review. Furthermore, Staff has determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.”

The following member of the public spoke on this item: Barbara Hunt.

Councilmember Brand requested the City Attorney provide research about the possibility of utilizing a “cloud” backup system.

City Manager Rudd stated he would have the Information Services Department provide information to Council regarding data backups.

City Attorney Sloan stated he would have his office review local preference issues for Council.

Councilmember Brand motioned to continue the item for 30 days with options to be presented.

Motion / Second: Councilmember Brand / Councilmember Xiong
Ayes: Baines, Brand, Caprioglio, Xiong
Noes: Olivier, Quintero, Brandau

- F. Approve the acquisition of 19.66 acres of property in the amount of \$3,855,500, owned by Rancho Rivington, a limited partnership, for the construction of Veterans Boulevard

overcrossing near Golden State and Bullard Avenue (**Council District 2**) - Public Works Department

Action Taken: APPROVED

The following member of the public spoke on this item: Barbara Hunt.

Motion / Second: President Brandau / Councilmember Xiong
Ayes: Baines, Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau
Noes: None

Councilmember Brand exited the Council Chamber at 4:18 P.M.

- G.** Actions pertaining to the First Street traffic synchronization project from Nees Avenue to Ventura Street rebid (bid file 3321) (**Council Districts 3, 4, 5, 6, and 7**) – Public Works Department
1. Adopt finding of a Categorical Exemption per staff determination, pursuant to Section 15301(c) of the CEQA Guidelines, for the First Street traffic synchronization project from Nees Avenue to Ventura Street
Action Taken: ADOPTED
 2. Award a construction contract with Kertel Communications Inc., dba Sebastian of Fresno in the amount of \$1,197,058 for the base bid and all add alternates for the First Street traffic synchronization project from Nees Avenue to Ventura Street
Action Taken: AWARDED

Motion / Second: Councilmember Quintero / Acting President Baines
Ayes: Baines, Caprioglio, Olivier, Quintero, Xiong, Brandau
Noes: None
Absent: Brand

Councilmember Brand entered the Council Chamber at 4:22 P.M.

- H.** Actions pertaining to the Fresno/Clovis Regional Wastewater Reclamation Facility Headworks Building coating repair and stop plate installation – (**Council District 3**) - Department of Public Utilities
1. **RESOLUTION** – 46th amendment to the Annual Appropriation Resolution (AAR) No. 2013-98 appropriating \$4,458,000 for the Fresno/Clovis Regional Wastewater Reclamation Facility Headworks Building coating repair and stop plate installation
Action Taken: CONTINUED
 2. Adopt a finding of Class 1 Categorical Exemption, pursuant to Section 15301 (b) and (d) of the California Environmental Quality Act Guidelines
Action Taken: CONTINUED
 3. Award a \$6,367,960 contract as negotiated to Floyd Johnston Construction Company of Clovis, California for the design and construction thereof (bid file 3201)
Action Taken: CONTINUED

The following member of the public spoke on this item: Barbara Hunt.

Public Utilities Supervisor Kevin Norgaard read the following correction into the record: “[i]n addition to the Class 1 Categorical Exemption pursuant to section 15301 (b) and (d) of the CEQA Guidelines, staff has determined that none of the exceptions to the categorical exemptions set forth in the CEQA Guidelines, section 15300.2, apply to this project.”

President Brandau motioned to continue the item.

Motion / Second: President Brandau / Councilmember Quintero
Ayes: Baines, Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau
Noes: None

SCHEDULED COUNCIL HEARINGS AND MATTERS

- 2:00 P.M. HEARING** to consider Plan Amendment Application No. A-11-003, Rezone Application No. R-11-003, and related Environmental Finding for property located on the northeast corner of North Fowler and East Clinton Avenues (**Council District 4**) - Development and Resource Management Department
- Action Taken:** HELD
- a. Consider the environmental finding of Environmental Assessment No. A-11-003/ R-11-003/C-13-092/T-6033, a finding of a Mitigated Negative Declaration, dated March 21, 2014
Action Taken: ADOPTED
- b. **RESOLUTION** - Approving Plan Amendment Application No. A-11-003 to amend the 2025 Fresno General Plan and the McLane Community Plan for ±34.01 net acres of property located on the northeast corner of North Fowler and East Clinton Avenues from the light industrial planned land use to the neighborhood commercial planned land use designation for 2.14 acres and to the medium density residential planned use designation for 31.87 acres
Action Taken: RESOLUTION 2014-80 ADOPTED
- c. **BILL- (For introduction and adoption)** - Amending the Official Zone Map to reclassify ±34.01 net acres of property located on the northeast corner of North Fowler and East Clinton Avenues from the C-M/UGM/cz (Commercial and Light Manufacturing/Urban Growth Management/conditions of zoning) zone district to the C-1/UGM/cz (Neighborhood Shopping Center/Urban Growth Management/conditions of zoning) for 2.14 acres and to the R-1/UGM/cz (Single Family Residential/Urban Growth Management/conditions of zoning) zone district for 31.87 acres
Action Taken: BILL B-23 AND ORDINANCE 2014-25 ADOPTED

The following members of the public spoke on this item: Jeff Roberts of Granville Homes and Barbara Hunt.

Councilmember Olivier cited a conflict and recused himself from this item and exited the Council Chamber at 4:27 P.M.

Motion / Second: Councilmember Caprioglio / Acting President Baines
Ayes: Baines, Brand, Caprioglio, Xiong, Brandau
Noes: Quintero
Recused: Olivier

2. **GENERAL ADMINISTRATION CONTINUED**

- I. Approve application for and acceptance of Fiscal Year 2013 Staffing for Adequate Fire and Emergency Response (SAFER) grant award for \$2,587,200 through the U.S. Department of Homeland Security - Fire Department

Action Taken: APPROVED

1. **RESOLUTION** - Authorizing the application for and acceptance of Fiscal Year 2013 Cycle Staffing for Adequate Fire and Emergency Response (SAFER) funding issued by the U.S. Department of Homeland Security Grant Program and authorizing completion of all required documents

Action Taken: RESOLUTION 2014-81 ADOPTED

2. **RESOLUTION** - 35th amendment to the Annual Appropriation Resolution (AAR) No. 2013-98 appropriating \$227,200 from the SAFER Grant Program to the Fire Department for funding shift replacement in Fiscal Year 2014

Action Taken: RESOLUTION 2014-82 ADOPTED

The following member of the public spoke on this item: Barbara Hunt.

Motion / Second: Acting President Baines / Councilmember Xiong
Ayes: Baines, Brand, Caprioglio, Quintero, Xiong, Brandau
Noes: None
Absent: Olivier

3. **CITY COUNCIL**

- A. 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, Olivier, Xiong**
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, Xiong, Swearengin**
9. Leadership Council on Ending Homelessness - **Swearengin, Baines**
10. San Joaquin River Conservancy Board - **Swearengin (Brandau-Alternate)**
11. Association for the Beautification of Highway 99 - **Baines**
12. Upper Kings Basin Integrated Regional Water Management JPA – **Xiong**
13. Pension Reform Task Force – **Brand, Xiong, (3rd Member vacant)**
14. Economic Development Corporation Serving Fresno County – **Brandau-Ex-Officio**
15. Fresno/Clovis Convention & Visitors Bureau (CVB) – **Amy Fuentes**
16. League of California Cities (Annual Meeting) – **Swearengin (Olivier-Alternate)**
17. San Joaquin Valley Air Pollution Control District - **Baines**

- 18. Infill Development Ad Hoc Subcommittee - **Brand, Baines, Olivier**
- 19. Litigation Exposure Reduction Ad Hoc Committee – **Brandau, Caprioglio**
- 20. Convention Center Oversight Advisory Board – **Baines, (Brand-Alternate), City Manager, SMG General Manager and one representative from each of SMG’s organizations**
Action Taken: NO COMMENTS MADE AND NO ACTION TAKEN

Councilmember Olivier entered the Council Chamber at 4:49 P.M.

UNSCHEDULED COMMUNICATION

The following member of the public spoke to Council regarding items not on the Agenda:

Barbara Hunt – discussed: voting separately for each action item on the agenda; jurisdiction and boundaries throughout the City of Fresno and the County of Fresno; the mislabeling of Southwest Fresno.

4. CLOSED SESSION

The City Council met in closed session in Room 2125 from 4:51 P.M. to 6:40 P.M. to discuss the following:

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

- 1. City of Fresno v. Chevron USA et al. - MDL 1358; CV-04973 (SAS)

Action Taken: HELD

City Attorney Sloan announced Council had approved an appeal of the court’s ruling in this matter and authorized the City to obtain from each remaining defendant a waiver of costs and settlement payment in exchange for a waiver of appeal and dismissal with prejudice.

Motion / Second: Acting President Baines / Councilmember Xiong
 Ayes: Baines, Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau
 Noes: None

B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - Government Code Section 54956.8

Property involving APN 493-020-28ST (No Address) and APN 493-020-37ST; (5005 E. Dakota)

Negotiating Parties: Executive Director of Successor Agency Marlene Murphey

Action Taken: HELD

No announcement was made.

C. **CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION** - Government Code Section 54956.9, Subdivision (d)(1)

1. **Case Name:** City of Fresno, a municipal corporation, Douglas Sloan, in his capacity as the City Attorney of the City of Fresno v. Doug Vagim, Diane Smith, Steve Wayte; Fresno Superior Court No. 13CECG03080
5th District Court of Appeal No. F069296

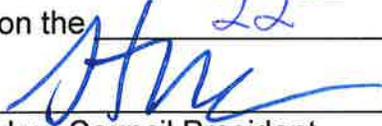
Related Matter: Doug Vagim, Diane Smith, Steve Wayte v. City of Fresno, a municipal corporation, Douglas Sloan, in his capacity as the City Attorney of the City of Fresno; Fresno Superior Court No. 13CECG03206

Action Taken: HELD

No announcement was made.

ADJOURNED IN THE MEMORY OF GEORGE SALWASSER JR. – 6:40 P.M.

Approved on the 22nd day of May, 2014.



Steve Brandau, Council President

ATTEST: 

Todd Stermer, Assistant City Clerk