

# City Council Minutes

## February 27, 2014

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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.

### 1:34 P.M. ROLL CALL

Present:	Oliver Baines III	Acting Council President
	Lee Brand	Councilmember
	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, arrived shortly thereafter
	Todd Stermer	Assistant City Clerk

Invocation by District Three Chief of Staff, Gregory Barfield

Pledge of Allegiance to the Flag

### Ceremonial Presentations:

Presentation of the American Society of Civil Engineers Award – Mayor's Office – **Presented**

Proclamation of "MULTIPLE SCLEROSIS AWARENESS WEEK" - Councilmember Brand – **Read**

Proclamation of "RECOGNITION OF NATIONAL NUTRITION MONTH" – Councilmember Brand – **Read**

Approve Council minutes of February 13, 2014

**Action Taken:** APPROVED AS SUBMITTED

Motion / Second: Councilmember Olivier / Acting President Baines

Ayes: Baines, Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau

Noes: None

Approve Successor Agency minutes of February 6 and February 13, 2014

**Action Taken:** APPROVED AS SUBMITTED

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

Approve FRC minutes of February 13, 2014

**Action Taken:** APPROVED AS SUBMITTED

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

Councilmember Reports and Comments

**Action Taken:** HELD

President Brandau asked the City Manager to look into alternatives concerning the City's water procurement program and to research any and all alternatives to the current process, including public private partnerships, which could help the city procure investments. President Brandau also requested the City Manager look into cost saving means of financing the project and for a report back to Council.

President Brandau informed Council that the County of Fresno halted efforts to engage in a joint meeting with the City and that it would probably not happen anytime soon. President Brandau encouraged Councilmember Caprioglio to move forward his attempt to establish a joint meeting with the City of Clovis.

Approve Agenda

**Action Taken:** APPROVED AS AMENDED

Assistant City Clerk Stermer announced that: Consent item 1-D concerning bicycle lanes on Cedar Avenue had been pulled by staff and would be placed on the agenda for the following week; staff would read a correction into the record for General Administration item 2-E concerning the downtown planting and irrigation project, and; a special closed session item would be heard at 1:30 P.M. or as soon thereafter as could be heard.

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

Adopt Consent Calendar

**Action Taken:** ADOPTED

Public Works Manager Son read the following correction into the record concerning the environmental finding on item 2- E pertaining to the downtown planting and irrigation project: "[t]he environmental

finding should state, 'Adopt finding of a categorical exemption per staff determination, pursuant to section 15302, 15303 and 15304 of the CEQA guideline for the Downtown Planting and Irrigation Project.'

The following member of the public spoke on Consent Calendar: Mike Wells (1-D).

Councilmember Caprioglio moved Consent item 1-A to Contested Consent for further discussion.

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

**1. CONSENT CALENDAR**

- B. RESOLUTION** - Of Intention to annex Final Tract Map No. 6044, Annexation No. 53, to the City of Fresno Community Facilities District No. 11; and to authorize the levy of special taxes and setting the public hearing for March 27, 2014 at 10:30 a.m. (northeast corner of N. Garfield and W. Barstow Avenues) (*Property located in District 2*) - Public Works Department  
**Action Taken:** RESOLUTION 2014-32 ADOPTED
- C. RESOLUTION** - Ordering the summary vacation of the ten foot wide public utility easement (PUE) along the north side E. Clubhouse Drive, east of N. Alicante Drive, in Tract No. 5973 (*Property located in District 6*) - Public Works Department  
**Action Taken:** RESOLUTION 2014-33 ADOPTED
- E. BILL – (For introduction)** - Repealing Sections 11-601, 11-607, 11-625, and 11-632 of Article 6, Chapter 11 of the Fresno Municipal Code, and adding Sections 11-601, 11-607, 11-625, and 11-632 of Article 6, Chapter 11 of the Fresno Municipal Code relating to Floodplain Regulations – Development and Resource Management Department  
**Action Taken:** Bill B-9 INTRODUCED AND LAID OVER

**CONTESTED CONSENT CALENDAR**

- A. Actions pertaining to the new manhole access sewer structures (*Property located in Council District 3 and parts of Fresno County*) – Department of Public Utilities**
    - 1. Adopt a finding of Class 3 and 4 Categorical Exemptions, pursuant to Section 15303(d) (new construction or conversion of small structures) and 15304(f) (minor alterations to land) of the California Environmental Quality Act Guidelines  
**Action Taken:** ADOPTED
    - 2. Award a \$108,500 construction contract to Floyd Johnston Construction Company, Inc. of Clovis, California  
**Action Taken:** AWARDED
- Motion / Second: Councilmember Caprioglio / Councilmember Olivier  
Ayes: Baines, Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau  
Noes: None

## **SCHEDULED COUNCIL HEARINGS AND MATTERS**

**1:30 P.M. CONTINUED HEARING** to consider Plan Amendment Application Nos. A-13-004 & A-13-005, Rezone Application Nos. R-13-011 & R-13-012, and related Environmental Finding for property located on the northwest and northeast corners of N. Hayes and W. Herndon Avenues (***Property located in District 2***) – Development and Resource Management Department  
**Action Taken:** HELD

The following member of the public spoke on this item: Brent McCaffery

- a. Consider the environmental finding of Environmental Assessment No. A-13-004/A-13-005/R-13-011/R-13-012/C-13-098/C-13-099/T-6052/T-6053, a finding of a Mitigated Negative Declaration, dated December 20, 2013  
**Action Taken:** ADOPTED
  - b. **RESOLUTION**—Approving Plan Amendment Application No. A-13-004 to amend the 2025 Fresno General Plan and the Bullard Community Plan for ± 13.26 net acres of property located on the northwest corner of N. Hayes and W. Herndon Avenues from the neighborhood commercial planned land use to the medium density residential planned land use designation  
**Action Taken:** RESOLUTION 2014-34 ADOPTED
  - c. **RESOLUTION**—Approving Plan Amendment Application No. A-13-005 to amend the 2025 Fresno General Plan and the Bullard Community Plan for ± 4.30 net acres of property located on the northeast corner of N. Hayes and W. Herndon Avenues from the office commercial planned land use to the medium-low density residential planned land use designation  
**Action Taken:** RESOLUTION 2014-35 ADOPTED
  - d. **BILL— (For introduction and adoption)** - Amending the Official Zone Map to reclassify ± 13.26 net acres of property located on the northwest corner of N. Hayes and W. Herndon Avenues from the C-1/EA/UGM/cz (Neighborhood Shopping Center/ Expressway Area Overlay/Urban Growth Management / conditions of zoning) zone district to the R-1/EA/UGM (Single Family Residential/Expressway Area Overlay/Urban Growth Management) zone district  
**Action Taken:** BILL B-10 INTRODUCED AND ORDINANCE 2014-12 ADOPTED
  - e. **BILL— (For introduction and adoption)** - Amending the Official Zone Map to reclassify ± 4.30 net acres of property located on the northeast corner of N. Hayes and W. Herndon Avenues from the C-P/EA/UGM/cz (Administrative and Professional Office/Expressway Area Overlay/Urban Growth Management / conditions of zoning) zone district to the R-1/EA/UGM (Single Family Residential/Expressway Area Overlay/Urban Growth Management) zone district  
**Action Taken:** BILL B-11 INTRODUCED AND ORDINANCE 2014-13 ADOPTED
- Motion / Second: President Brandau / Councilmember Xiong  
Ayes: Baines, Brand, Caprioglio, Olivier, Quintero, Xiong, Brandau  
Noes: None

**1:40 P.M. CONTINUED HEARING** to consider Plan Amendment No. A-13-006, Rezone Application No. R-13-013, and related Environmental Assessment for property located on the east side of N. Polk Avenue between W. Corona and N. Dante Avenues **(Property located in District 2)** – Development and Resource Management Department **(Continue to 1:40 p.m.)**

**Action Taken:** HELD

The following member of the public spoke on this item: Brent McCaffery

a. Consider the environmental finding of Environmental Assessment No. A 13-006/R-13-013/C-13-151/T-6054, a finding of a Mitigated Negative Declaration, dated December 20, 2013

**Action Taken:** ADOPTED

b. **RESOLUTION** – Approving Plan Amendment Application No. A-13-006 to amend the 2025 General Plan and Bullard Community Plan for 9.27 net acres of property located on the east side of N. Polk Avenue between W. Corona and N. Dante Avenues from the Medium High Density Residential land use designation to the Medium Density Residential planned land use designation

**Action Taken:** RESOLUTION 2014-36 ADOPTED

c. **BILL - (For introduction and adoption)** - Amending the Official Zone Map to reclassify 9.27 net acres of property located on the east side of N. Polk Avenue between W. Corona and N. Dante Avenues property from the R-2/UGM (Low Density Multiple Family Residential/Urban Growth Management) zone district to the R-1/UGM (Single Family Residential/Urban Growth Management) zone district

**Action Taken:** BILL B-12 INTRODUCED AND ORDINANCE 2014-14 ADOPTED

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

## 2. **GENERAL ADMINISTRATION**

A. **WORKSHOP** relating to Measure “C” Transit Oriented Development (TOD) funding and downtown projects — City Manager’s Office

HELD

B. **RESOLUTION** - Authorizing the submission of applications for grants of \$533,457 for capital improvement projects in the Cultural Arts District in Downtown Fresno under the Fresno County Measure “C” Transit Oriented Development (TOD) Program and authorizing the execution of application-related documents by the City Manager or designee - City Manager’s Office

**Action Taken:** RESOLUTION 2014-37 ADOPTED

The following member of the public spoke on this item: Jeff Roberts

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

**C.** Actions pertaining to the professional consulting services associated with the development of a comprehensive transit operations and maintenance facility master plan – Transportation Department

1. Approve a consultant agreement in the amount of \$303,277 with Maintenance Design Group, LLC, a Colorado limited liability company, for the development of a comprehensive Facility Assessment and Master Capital Plan

**Action Taken:** APPROVED

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

**D.** Actions pertaining to the professional consulting services associated with the downtown passenger shelter, engineering and design – Transportation Department

1. Approve a consultant agreement in the amount of \$148,869 with Siegfried Engineering Inc., a California corporation, for design and engineering services for passenger shelters at various locations in the downtown area

**Action Taken:** APPROVED

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

**E.** Actions pertaining to the Downtown Planting and Irrigation Project (***Property located in Districts 3 and 7***) - Public Works Department

1. Adopt finding of a Categorical Exemption per staff determination, pursuant to Sections 15301, 15303 and 15304 of the CEQA guidelines, for the downtown planting and irrigation project

**Action Taken:** ADOPTED

2. Award a construction contract to Naturescapes of San Jose, CA in the amount of \$549,978.25 for the downtown planting and irrigation project

**Action Taken:** AWARDED

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

- F. **RESOLUTION** – Approving the application for and acceptance of up to \$1,000,000 in Sustainable Communities Planning Grant and Incentive Program Grant funds from the State of California Strategic Growth Council and authorizing execution of documents – Development and Resource Management Department

**Action Taken:** RESOLUTION 2014-38 ADOPTED

The following member of the public spoke on this item: Jeff Roberts.

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

- G. **BILL – (For introduction)** - Consider Text Amendment Application No. TA-13-006 and related environmental finding for Environmental Assessment No. TA-13-006 relating to the use of outdoor dining areas, including within street easements and rights-of-way, without requiring a special permit for certain uses – Development and Resource Management Department

**Action Taken:** BILL B-13 INTRODUCED AND LAID OVER

The following members of the public spoke on this item: Dr. Gail Newel, Justina Felix, Kathryn Lisonbee, Randy Reed, L.J. Mariano and Guille Toland.

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

### **UNSCHEDULED COMMUNICATION**

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

Michael Pate – discussed instituting repeatable permit structures at reasonable fees.

Douglas Richert – discussed self-drive technology and Fresno as a test market for Google.

Lee Ventresa – suggested upgrades to the Fulton Mall instead of adding heat trapping blacktop.

### 3. **CITY COUNCIL**

### 4. **CLOSED SESSION**

The City Council met in closed session in Room 2125 from 3:57 P.M. to 4:16 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 & Successor Agency to the Redevelopment Agency of the City of Fresno v. State of California et al. (Re: Successor Agency, etc. housing asset transfers); Sacramento County Superior Court Case No. 34-2013-80001450  
**Action Taken:** HELD

No announcement was made.

### **1:30 P.M. CLOSED SESSION SPECIAL MEETING**

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

County of Madera, a California General Law County v. City of Fresno, a California Charter City; Fresno City Council, a legislative body and DOES 1-20, inclusive (The John Allen Company, LLC., a California Limited Liability Company, and DOES 21-100, inclusive, Real Parties in Interest). Fresno Superior Court No. 13CECG00807

**Action Taken:** HELD

No announcement was made.

City of Fresno v. County of Fresno; Board of Supervisors of County of Fresno; Real party in Interest Bigelow Silkwood Friant Ranch L.P.; Friant Ranch L.P.; Friant Ranch No. 2 L.P.; Whispering Springs LLC; Friant Station Inc.; Martin & Associates, LLC; Depot Development Inc. Fresno County Superior Court Case No.: 11CECG00706 (Consolidated with Fresno County Superior Court Case Nos. 11CECG00709 and 11CECG00726)

**Action Taken:** HELD

No announcement was made.

City of Fresno v. Fresno County Local Agency Formation Commission (LAFCO) and Real Party in Interest, Friant Ranch L.P.; Friant Ranch No.2, L.P.; Whispering Springs LLC; Friant Station Inc.; Depot Development, Inc.; County of Fresno; Board of Supervisors of the County of Fresno; Fresno County Waterworks, District No. 18. Fresno County Superior Court Case No. 11CECG03812

**Action Taken:** HELD

No announcement was made.

City of Fresno v. Fresno County Local Agency Formation Commission; and Real Parties in Interest Waterworks District No. 18; Friant Ranch L.P.; Friant Ranch No. 2 L.P.; Whispering Springs LLC; Friant Station Inc.; Depot Development, Inc. Fresno County Superior Court Case No. 13CECG00392

**Action Taken:** HELD

No announcement was made.

**RECESSED – 4:16 P.M. to 5:00 P.M.**

**5:00 P.M. HEARING** to consider approvals related to the Proposed Fulton Mall Reconstruction Project (*Property located in District 3*) – City Manager's Office, Public Works Department and Development and Resource Management Department

**Action Taken:** HELD

President Brandau noted the 5:00 P.M. item was expected to have a large public turnout and run long so Council procedures would be modified to facilitate the item by: allowing Council an opportunity to ask clarifying questions of staff immediately following the staff presentation; adjusting public comments to two minutes rather than the customary three, and; if public comment has not concluded after several hours Council would decide whether to continue taking public comments and postpone the vote or conclude public comment in order to take the vote.

The following people spoke as part of the staff presentation:

Mayor Ashley Swearengin  
Elliott Balch, Downtown Revitalization Manager, City of Fresno  
Michael Houlihan, FirstCarbon Solutions  
Robert Gibbs, Gibbs Planning Group (by phone)  
Ya-yin Isle, Rosenow Spevacek Group  
Bruce Judd, Bruce Judd Consulting Group  
Steve Cancian, Shared Spaces  
Douglas Nelson, Royston Hanamoto Alley & Abey  
Randall Morrison, Special Projects Engineer, City of Fresno  
Kate Borders, Downtown Fresno Partnership

Councilmember Quintero asked clarifying questions of staff regarding: reoccupation of existing buildings; the status of the Fulton Mall as a pedestrian mall versus a park; bond money from the Eaton Plaza project; environmental impact to minority populations; NEPA and CEQA reviews of the project; alternatives presented, and; his ability to present a new option for the Fulton Mall.

Councilmember Caprioglio noted for the record that he was not present for any of the challenges the City faced which the mayor mentioned during her presentation. Councilmember Caprioglio asked clarifying questions about items he felt were hurdles to the project including: parking, litigation costs, and sources of funding to cover cost overruns.

President Brandau asked clarifying questions about: the 2013, federal T.I.G.E.R. grant and whether it was associated with a stimulus package.

The following members of the public spoke on this item:

Kurt Madden  
Dr. Randy White  
Al Smith  
George Garcia  
Diane Engeln  
William Dyck  
Vickie Goudreau  
Raul De Alba  
Kyle Kirkland  
Lupe Padilla  
Frank Esquivel

Jeff Becker  
Sai Ramya Maddali  
Steve Skibbie  
Krista Tsutsui  
Kim Leonard  
Shay Maghame  
Ephram Bosse  
Cole Judge  
Connie Claes  
Dixie Salazar  
Victoria Gonzales

Craig Scharton  
Susan McCline  
Brent Weiner  
Ray McKnight  
Michelle Downer  
Mitch Freund  
Catherine Fowler  
Jill Fields  
Brian Traverso  
Sevak Khatchadourian

**RECESSED – 8:12 P.M. to 8:31 P.M.**

President Brandau announced that speaker cards would be drawn for another thirty minutes after which time he would randomly draw five speaker cards from each side to conclude public comment. Public comment continued with the following speakers:

Jurgita Khatchadourian  
Mehmet Noyan  
Kiel Schmidt  
Andy Hansen-Smith  
Mick Marderosian

Kathy Bray  
Charles Magill  
Kate McKnight  
Tracy Wayte  
Terance Frazier

Robert Turner  
Linda Cano  
Don Scordino  
Mary Coomes

President Brandau clarified with City Attorney Sloan about his ability to place reasonable time limits on discussions and his ability to bring items to a close if both sides had been fairly represented and the discussion had become repetitive. From the remaining speaker cards, President Brandau called five people to speak that had marked their cards "In Favor" and five that had marked their cards "In Opposition." Public comment continued with the following speakers:

Lilia Gonzales-Chavez  
Nathan Delahay  
Doug Richert  
Guillermo Moreno

Ray Perez Jr.  
John Valentino  
Howard Watkins  
Gwen Racca

Jimelle L. Walls  
Mathr de Leon  
Stan Bitters  
Sophia Bush

Councilmember Brand discussed: the failure of the Fulton Mall; the financial status of the City; the need for bold decisions to reverse negative trends; the need for federal and state money to pay for infrastructure and capital projects; the need to open the Fulton Mall to make a difference downtown; the desire of developers to build downtown, and; the need for prudent management of any money used to open the mall. Councilmember Brand provided Council with a list of conditions he felt offered prudent management of the money that would be used to open the mall. Councilmember Brand made a motion to approve all parts of the 5:00 P.M. item, with a single vote, in addition to adopting the list of conditions he provided. Acting President Baines seconded the motion. A true and correct copy of the conditions are attached and incorporated herein.

Acting President Baines discussed: the protections provided by the conditions added by Councilmember Brand; the governments roll to provide infrastructure for private sector investment; the desire of developers to see the mall opened to traffic; options to deal with the failing Fulton Mall; preservation of art on the Fulton Mall; and the misplaced polarization of the issue.

Councilmember Quintero discussed compromise and modifications for the Fulton Mall including: opening up half the mall to traffic; making Fresno Street to Tulare Street a town square near the Mariposa mall and the proposed high speed rail; opening Fresno Street to Tuolumne Street near the Cultural Arts District; rejuvenating the opened streets with neon, restaurants, art galleries and nightclubs to create nightlife; opening Tulare Street to Inyo Street and redoing the facades to create an atmosphere like Olvera Street in Los Angeles; promoting the convention center; creating an area like Santana Row in San Jose near the older buildings south of Chukchansi Park; bringing the arts groups, restaurant associations and businesses together to achieve a common goal; utilizing old warehouses to create parking areas for Recreational Vehicles and establishing a charter service to bring those visitors to the national parks; addressing parking issues; adding more lights downtown; working with the Arts Council to address the issue of art that might be relocated. Councilmember Quintero also discussed the unintended effect of gentrification and the possibility of opening small police sub-stations.

Councilmember Olivier discussed his constituents' feelings about the project and their common fear that the City might end up financially "on the hook" for another bad project. Councilmember Olivier also discussed his confidence that the general fund would not be used to back stop or finance the project and would therefore be protected.

Councilmember Caprioglio stated he was not convinced the project would stay on budget and that he could not support sub items two or three. Councilmember Caprioglio suggested opening half the Fulton Mall to see if the budget could be adhered too and questioned which funds would be used to maintain the new street.

Councilmember Xiong discussed; the unintended consequence of gentrification; long term commitments to small business investors; traffic impacts to the surrounding area; the relation of the Bus Rapid Transit project to the Fulton Mall project when it comes to analyzing for mitigating environmental factors; the effects of the conditions proposed by Councilmember Brand; litigation funds; what "sustainability" means and what it costs, and; the importance of due diligence by Council before decisions are made.

President Brandau asked former City Manager Scott to speak on the item. Mr. Scott stated he strongly believed in the project and felt that it was the future for Fresno.

President Brandau clarified with Mayor Swearingin that: the T.I.G.E.R. grant was not stimulus money; no money would be committed until Council voted on a contract after the design was complete and bids were received; the Fulton Mall project was not

dependent on High Speed Rail or Bus Rapid Transit, and; art would be preserved with input from the art community. President Brandau also discussed the thought processes that lead him to a decision on the issue.

1. Consideration of Plan Amendment Application No. A-13-008 and certification of the related Environmental Impact Report (EIR) SCH No. 2013101046 filed by Jennifer K. Clark, Development and Resource Management Director, on behalf of the City of Fresno, pertaining to 7.18± acres of property located on the Fulton Mall in downtown Fresno:
  - a. **RESOLUTION** – Certifying Final Environmental Impact Report (EIR) No. SCH 2013101046 for Plan Amendment Application No. A-13-008 and the Fulton Mall Reconstruction Project; and,
    - i. Adopting Findings of Fact as required by Public Resources Code, section 21081(a) and CEQA Guidelines, Section 15091; and
    - ii. Approving a Mitigation Monitoring Program as required by Public Resources Code, section 21081.6 and CEQA Guidelines, section 15097; and
    - iii. Adopting the Statement of Overriding Considerations as required by Public Resources Code, Section 21081(b) and CEQA Guidelines, Section 15093  
**Action Taken:** RESOLUTION 2014-39 ADOPTED
  - b. **RESOLUTION** – Approving Plan Amendment No. A-13-008 to:
    - i. Amend the 2025 Fresno General Plan Land Use Element to remove the Open Space/Pedestrian Mall land use designation of the Fulton Mall;
    - ii. Amend the Circulation Element to designate the portions of Fulton Street, Kern Street, Mariposa Street, and Merced Street (collectively known as the Fulton Mall) to the local street designation; and
    - iii. Amend the Central Area Community Plan (“CACP”) to modify the sections of the CACP that discuss the Fulton Mall accordingly  
**Action Taken:** RESOLUTION 2014-40 ADOPTED
2. **BILL- (For Introduction)** - Repealing Section 14-1803, amending Subsection (d) of Section 10-105, Subsection (b) and (c) of Section 12-1711, Subsection (f) of Section 14-1801, Section 14-1802, Section 14-1806 of, and adding Subsection (g) to, the Fresno Municipal Code, relating to the removal of references to the Fulton Mall in the code and removal of Fulton Mall from Pedestrian Mall No. 1  
**Action Taken:** BILL B-14 INTRODUCED AND LAID OVER
3. **RESOLUTION** - Selecting Project Option 1 as the City’s preferred build alternative  
**Action Taken:** RESOLUTION 2014-41 ADOPTED
4. **RESOLUTION** – Authorizing the Public Works Director to take actions necessary to secure funding for the construction of the Project:
  - a. Execute in substantially the form attached, subject to approval as to form by the City Attorney, a Transportation Investment Generating Economic Recovery (TIGER) grant agreement with the Federal Highway Administration for the use of TIGER construction grant funding in the amount of \$15,924,620 for the Project;
  - b. Execute in substantially the form attached, subject to approval as to form by the City Attorney, a project oversight agreement with the Federal Highway Administration enabling the use of TIGER construction funding; and

- c. Apply for, and negotiate and execute cooperative agreements for use of, \$1,800,000 in Measure C Transit Oriented Development (TOD) funds for construction of the Project

**Action Taken:** RESOLUTION 2014-42 ADOPTED

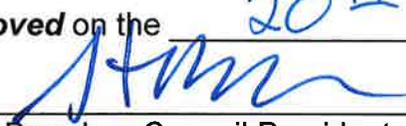
Motion / Second: Councilmember Brand / Acting President Baines

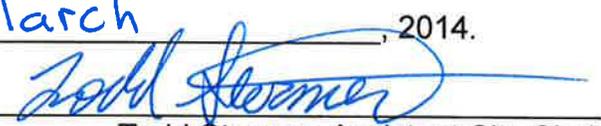
Ayes: Baines, Brand, Olivier, Xiong, Brandau

Noes: Caprioglio, Quintero

**ADJOURNED – 10:54 P.M.**

Approved on the 20<sup>th</sup> day of March, 2014.

  
Steve Brandau, Council President

ATTEST:   
Todd Stermer, Assistant City Clerk

## CONDITIONS FOR OPTION ONE FULTON MALL VOTE - COUNCILMAN BRAND

### Conditions that must be met prior to approval for a construction contract

1. Subject to confirmation of engineer's final estimate of cost and confirmation of contractors final bid price for Project Option One that includes at least a 10% construction contingency line item, to not exceed \$20 million or adjusted figure supported by sufficient funding. (Engineer estimate currently at 60% stage)
2. Subject to specifically identifying the **final** funding sources for Project Option 1 including the TIGER Grant, Measure C TOD funds, local match funds (PBIB) and any other State Grant funds. Current estimated funding is as follows:

TIGER Grant	\$15,964,620
TOD funds	\$ 1,800,000
PBIB	\$ 250,000
State Grants	<u>\$ 3,000,000</u> (high estimate of \$3,000,000)

Total Funding	\$20,974,620
Option 1 Est. Costs	<u>\$19,974,405</u> (Engineer's Estimate at 30% stage)

Surplus (Shortfall) \$ 1,000,215

State Grants	<u>-\$1,000,000</u> (low estimate of \$2,000,000 grant)
Adjusted Balance	\$ 215

3. Subject to an estimate of legal costs to defend Option 1 on CEQA challenges.
4. Subject to an estimated timeline for construction and estimate of inflationary cost increases if project is substantially delayed and construction does not commence until 2016 or later.
5. Subject to a detailed estimate of costs for Plan B. Plan B is defined as final costs exceed identified funding sources in two scenarios of 10% and 20% cost overruns. Plan B will be prepared by project engineer that includes the specific items to be deleted (i.e. trees, parking stalls, infrastructure, amenities, 5 out of 6 blocks, etc.) and the corresponding cost reductions by line item in each of the two scenarios.
6. Subject to a final comparative analysis between the maintenance costs for six blocks of Fulton as a mall and six blocks of Fulton as a street. Current estimate of annual maintenance costs savings for Project Option 1 is \$80,000.

### Conditions that must be met prior to implementation of Plan 1:

1. Construction of Project Option 1 will not begin until all final cost estimates are complete and identified in a construction contract, there are no legal challenges impairing the ability to proceed, all funding sources are confirmed and no General Fund dollars are used in the financing.