

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.

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

Bruce Rudd, City Manager  
 Renena Smith, Assistant City Manager  
 Doug Sloan, City Attorney  
 Yvonne Spence, City Clerk  
 Todd Stermer, Assistant City Clerk

Sarbjit Singh of the Sikh Institute of Fresno gave the invocation and President Xiong led the Pledge of Allegiance.

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**APPROVE CITY COUNCIL MINUTES OF DECEMBER 5, 2013**

On motion of Councilmember Caprioglio, seconded by Acting President Brandau, duly carried, RESOLVED, the minutes of December 5, 2013, approved as submitted, by the following vote:

Ayes	:	Baines, Brand, Brandau, Caprioglio, Quintero, Xiong
Noes	:	None
Absent	:	Olivier

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

Councilmember Brandau congratulated the Fresno State football team for having won the Mountain West conference.

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**APPROVE AGENDA:**

City Clerk Yvonne Spence announced no changes to the agenda and noted an 8:45 special meeting to adopt the pension meet and confer agreement between the City of Fresno and the City of Fresno Management Employees Association – Unit 14 (CFMEA).

On motion of Councilmember Caprioglio, seconded by Acting President Brandau, duly carried, RESOLVED, the AGENDA hereby approved as submitted, by the following vote:

Ayes	:	Baines, Brand, Brandau, Caprioglio, Quintero, Xiong
Noes	:	None
Absent	:	Olivier

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**ADOPT CONSENT CALENDAR:**

**(1-A) RESOLUTION NO. 2013-202 - 21ST AMENDMENT TO THE ANNUAL APPROPRIATION RESOLUTION (AAR) NO. 2013-98 APPROPRIATING \$213,700 FOR THE FRESNO POLICE DEPARTMENT'S ASSET FORFEITURE PROGRAM (REQUIRES 5 AFFIRMATIVE VOTES)**

**(1-C) ACTIONS PERTAINING TO THE TRAFFIC SIGNAL INSTALLATION PROJECT AT THE INTERSECTION OF MILLBROOK AND SPRUCE AVENUES (PROPERTY LOCATED IN DISTRICT 6)**

**#1 ADOPT FINDINGS OF A CATEGORICAL EXEMPTION PURSUANT TO CLASS 1 SECTION 15301(C) (EXISTING FACILITIES) OF THE CEQA GUIDELINES FOR THE TRAFFIC SIGNAL INSTALLATION AT THE INTERSECTION OF MILLBROOK AND SPRUCE AVENUES**

**#2 AWARD A CONSTRUCTION CONTRACT WITH LEE WILSON ELECTRIC COMPANY, INC. OF ARROYO GRANDE, CALIFORNIA IN THE AMOUNT OF \$268,742.00 FOR THE TRAFFIC SIGNAL INSTALLATION PROJECT AT THE INTERSECTION OF MILLBROOK AND SPRUCE AVENUES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN THE CITY'S STANDARDIZED CONTRACT ON THE CITY'S BEHALF**

**(1-D) ACTIONS PERTAINING TO THE TRAFFIC SIGNAL INSTALLATION PROJECT AT THE INTERSECTION OF CHAMPLAIN AND LIBERTY HILLS/SAYBROOK AVENUES (PROPERTY LOCATED IN DISTRICT 6)**

**#1 ADOPT FINDINGS OF A CATEGORICAL EXEMPTION PURSUANT TO CLASS 1 SECTION 15301(C) (EXISTING FACILITIES) OF THE CEQA GUIDELINES FOR THE TRAFFIC SIGNAL INSTALLATION AT THE INTERSECTION OF CHAMPLAIN AND LIBERTY HILL/SAYBROOK AVENUES**

**#2 AWARD A CONSTRUCTION CONTRACT WITH LEE WILSON ELECTRIC COMPANY, INC. OF ARROYO GRANDE, CALIFORNIA IN THE AMOUNT OF \$248,396 FOR THE TRAFFIC SIGNAL INSTALLATION PROJECT AT THE INTERSECTION OF CHAMPLAIN AND LIBERTY HILL/SAYBROOK AVENUES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN THE CITY'S STANDARDIZED CONTRACT ON THE CITY'S BEHALF**

**(1-E) BILL NO. B-37 / ORDINANCE NO. 2013-36 – (INTRO. 12/5/13) (FOR ADOPTION) - AMENDING SECTIONS 3-332, 3-334 & 3-410 OF THE FRESNO MUNICIPAL CODE, RELATING TO DELETION OF MANDATORY RETIREMENT AGE**

**(1-F) ACTIONS PERTAINING TO THE CREATION OF DOWNTOWN CORRIDOR PARKING DISTRICT (PROPERTY LOCATED IN DISTRICT 3)**

**#1 BILL NO. B-36 / ORDINANCE NO. 2013-37 – (INTRO. 12/5/13) (FOR ADOPTION) - APPROVE THE ADDITION OF FRESNO MUNICIPAL CODE 14-2017 FOR CREATION OF DOWNTOWN CORRIDOR PARKING DISTRICT**

On motion of Councilmember Caprioglio, seconded by Acting President Brandau, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Baines, Brand, Brandau, Caprioglio, Olivier, Quintero, Xiong  
Noes : None  
Absent : None

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**CONTESTED CONSENT CALENDAR:**

**(1-B) APPROVE THE FIRST AMENDMENT TO THE MEASURE "C" COOPERATIVE AGREEMENT FOR SHORT-TERM REGIONAL TRANSPORTATION PROGRAM PROJECT I-2A URBAN, PEACH AVENUE (TRAFFIC SIGNAL AT CHURCH) (PROPERTY LOCATED IN DISTRICT 5)**

Councilmember Quintero asked Public Works Director Wiemiller to thank staff for bringing the item forward stating that it was long overdue.

On motion of Councilmember Quintero, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled **CONTESTED CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Baines, Brand, Brandau, Caprioglio, Olivier, Quintero, Xiong  
Noes : None  
Absent : None

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**GENERAL ADMINISTRATION:**

**(2-A) APPROVE A \$120,000 HOME INVESTMENT PARTNERSHIPS PROGRAM AGREEMENT WITH HABITAT FOR HUMANITY FRESNO, INC., FOR ACQUISITION, REHABILITATION, AND SUBSEQUENT SALE OF A CITY-OWNED, SINGLE-FAMILY HOUSE LOCATED AT 386 N. PARK AVENUE (APN: 459-144-24T), TO A LOW-INCOME HOMEBUYER**

Project Manager Nunez made a correction to the staff report stating the home was built around 1918, not 1930 as indicated.

Habitat for Humanity Executive Director Miranda expressed his excitement for the item and for partnering with the City to turn the property into a decent and affordable home for a low income family.

Councilmember Baines stated Habitat for Humanity was a great partner and he was happy to recommend approval.

On motion of Councilmember Baines, seconded by Councilmember Caprioglio, duly carried, RESOLVED, the \$120,000 Home Investment Partnerships Program Agreement with Habitat for Humanity Fresno, Inc., for acquisition, rehabilitation, and subsequent sale of a city-owned, single-family house located at 386 N. Park Avenue to a low-income homebuyer, hereby approved, by the following vote:

Ayes : Baines, Brand, Brandau, Caprioglio, Olivier, Quintero, Xiong  
Noes : None  
Absent : None

**(2-B) ACTIONS PERTAINING TO THE WATER SERVICE TRANSFERS IN THE VICINITY OF E. BULLARD AVENUE AND N. MILLBROOK AVENUE PROJECT (*PROPERTY LOCATED IN DISTRICT 4*)**

**#1 ADOPT FINDING OF A CATEGORICAL EXEMPTION PER STAFF DETERMINATION, PURSUANT TO SECTION 15302(C) CLASS 2 OF THE CEQA GUIDELINES (REPLACEMENT OR RECONSTRUCTION), FOR THE WATER SERVICE TRANSFERS IN THE VICINITY OF BULLARD AVENUE AND N. MILLBROOK AVENUE**

**#2 AWARD A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$1,119,830.50 TO WEST VALLEY CONSTRUCTION COMPANY OF SAN JOSE, CALIFORNIA, FOR THE WATER SERVICE TRANSFERS IN THE VICINITY OF E. BULLARD AVENUE AND N. MILLBROOK AVENUE AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CONTRACT ON THE CITY'S BEHALF**

Public Works Design Services Manager Goonawardena reviewed the issue and recommended approval, all as contained in the staff report as submitted.

On motion of Councilmember Caprioglio, seconded by Councilmember Brand, duly carried, RESOLVED, the Categorical Exemption, per staff determination, pursuant to Section 15302(c) Class 2 of the CEQA Guidelines for Water Service Transfers in the vicinity of E. Bullard Avenue and N. Millbrook Avenue, hereby adopted and the construction contract in the amount of \$1,119,830.50 with West Valley Construction Company of San Jose, California, for Water Service Transfers in the vicinity of E. Bullard Avenue and N. Millbrook Avenue is hereby awarded with authorization for the Public Works Director, or designee, to sign the City's Standardized contract on the City's behalf, by the following vote:

Ayes : Baines, Brand, Brandau, Caprioglio, Olivier, Quintero, Xiong  
Noes : None  
Absent : None

**(2-C) ADOPT THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF FRESNO (CITY) AND THE CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION - UNIT 14 (CFMEA), COVERING THE PERIOD JUNE 30, 2012 THROUGH JUNE 30, 2015**

Personnel Services Director Cardell announced a mutual agreement had been reached with the Management Employees Association. Mr. Cardell noted the agreement would extend through June, 2015 and highlighted a few terms including an additional 4% contribution towards the retirement plan, a fixed health contribution rate, and openers for further discussion on the health plan and the pension agreement. Mr. Cardell explained the pension was separate and apart from the MOU which was the reason for the separate notice.

President Xiong thanked staff and the CFMEA for working hard on the agreement.

On motion of Councilmember Baines, seconded by Councilmember Brand, duly carried, RESOLVED, the Memorandum of Understanding to implement changes in wages, hours and other terms and conditions of employment for City employees in Unit 14, represented by the City of Fresno Management Employees Association (CFMEA) and the accompanying pension meet and confer agreement hereby approved, by the following vote:

Ayes : Baines, Brand, Brandau, Caprioglio, Olivier, Quintero, Xiong  
Noes : None  
Absent : None

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**(8:45 A.M.) SPECIAL MEETING TO ADOPT THE PENSION MEET AND CONFER AGREEMENT BETWEEN THE CITY OF FRESNO AND THE CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION – UNIT 14 (CFMEA)**

Personnel Services Director Cardell noted the item was a separate agreement relative to a pension re-opener to discuss a new tier in the retirement system and was consistent with his previous presentation on item 2-C.

On motion of Councilmember Caprioglio, seconded by Acting President Brandau, duly carried, RESOLVED, Pension Meet and Confer Agreement between the City of Fresno and the City of Fresno Management Employees Association – Unit 14 (CFMEA) hereby adopted, by the following vote:

Ayes : Baines, Brand, Brandau, Caprioglio, Olivier, Quintero, Xiong  
Noes : None  
Absent : None

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**RECESS – 8:50 A.M. – 10:05 A.M.**

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**(10:00 A.M.) HEARING TO ADOPT A RESOLUTION NO. 2013-203 ORDERING THE VACATION OF N. JEANNE AVENUE SOUTHEAST OF W. SIERRA AVENUE (PROPERTY LOCATED IN DISTRICT 2)  
#1 RESOLUTION NO. 2013-203 - ORDERING THE VACATION OF A PORTION N. JEANNE AVENUE SOUTHEAST OF W. SIERRA AVENUE**

President Xiong announced the time had arrived to consider the issue and opened the hearing.

Public Works Assistant Director Mozier reviewed the issue and recommended approval, all as contained in the staff report as submitted.

Upon call, no one wished to be heard and President Xiong closed the hearing.

On motion of Acting President Brandau, seconded by Councilmember Caprioglio, duly carried, RESOLVED, Resolution No. 2013-203 hereby adopted, by the following vote:

Ayes : Baines, Brand, Brandau, Caprioglio, Olivier, Xiong  
Noes : None  
Absent : Quintero

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**UNSCHEDULED COMMUNICATION:**

Upon call, no member of the public addressed council and unscheduled communication was closed.

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**RECESS – 10:08 A.M. – 10:15 A.M.**

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**(10:15 A.M.) JOINT MEETING OF THE CITY OF FRESNO AND THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO AND FRESNO REVITALIZATION CORPORATION  
#1 REJECT ALL BIDS FOR REQUIREMENTS CONTRACT, PROPERTY MAINTENANCE & WEED CONTROL**

Upon return from recess, the City Council convened in Joint session with the Successor Agency to the Redevelopment Agency of the City of Fresno and Fresno Revitalization Corporation.

Executive Director Murphey recommended the two bids be rejected because one lacked the required bid deposit and the other lacked the requisite statement of qualifications. Ms. Murphey noted the item would be put out for bid again once the current bids were rejected.

On motion of Member Brandau, seconded by Member Caprioglio, duly carried, RESOLVED, all bids for requirements contract for property maintenance and weed control hereby rejected, by the following vote:

SUCCESSOR AGENCY VOTE (City Council are members)  
Ayes : Brand, Brandau, Caprioglio, Olivier, Xiong, Baines  
Noes : None  
Absent : Quintero

The joint bodies adjourned their meeting at 10:17 A.M. and the City Council reconvened in regular session.

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**RECESS – 10:17 A.M. – 10:30 A.M.**

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**(10:30 A.M.) WORKSHOP RELATING TO BUS RAPID TRANSIT (BRT)**

President Xiong clarified the workshop was an informational opportunity for Council and there would be no public comment or input.

City Manager Rudd stated the purpose of the workshop was to provide council a better understanding of the BRT project and how it was an integral part of the general plan update and how it was consistent with general plan alternative “A” which council approved in April. Mr. Rudd augmented his presentation with a PowerPoint and discussed the following: how alternative “A” was being used to help the region meet federal air quality standards as well as state greenhouse gas emissions requirements; the history of BRT through the present time; how the investment in BRT related to the land use strategies contained in the general plan; provided an operational overview of BRT and how it compared to traditional fixed route services; implications to public transportation if council decided not to move forward with BRT and the implications for the City, County and Region for deviating from the proposed general plan and the loss of intensification and vehicle miles traveled; and the next steps for the general plan and the BRT.

Upon conclusion of Mr. Rudd’s presentation an extensive discussion ensued with Mr. Rudd responding to questions and/or comments of Councilmembers Brand, Olivier and Acting President Brandau relating to: the finality of the project; consequences of not moving forward; BRT performance; pro forma projections; cost comparisons with fixed service buses; reasons for poor air quality in the valley; FAX revenues, fares and reserves; bus replacement costs; regulatory realities; BRT impact on property values; developers and high density housing; Council’s past involvement in choosing the path leading to BRT; the City’s current transportation needs and whether fixed service busses could meet them with some modification to routes; the ability to provide amenities for present and future demands; reductions in vehicle miles traveled; regional projects impacting the environment; the possibility of searching for an alternative to BRT to hit emission goals; and whether Senate Bill 375 makes suggestions or mandates.

Acting President Brandau asked Amalgamated Transit Union President Steitz to state his concerns with BRT.

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**RECESS – 12:05 P.M. – 1:35 P.M.**

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**CONTINUED (10:30 A.M.) WORKSHOP RELATING TO BUS RAPID TRANSIT (BRT)**

Acting President Brandau asked Tony Boren, Executive Director of the Fresno COG to speak on the issue.

Acting President Brandau believed there would be too much work for too little gain, referring to the possibility of a 1% reduction in vehicle miles traveled and added that he felt it unlikely the City would hit the marks predicted. Acting President Brandau stated there were a lack of options for the current Councilmembers and the BRT was pre-determined for this council based on the same “build it and they will come” philosophy which failed in the past and he was concerned people would choose to move outside the Fresno sphere of influence if Fresno was the only entity concentrating on infill while neighboring jurisdiction worked on greenfield projects.

Councilmember Baines asked to put his position on the record and noted the decision concerned land use and air quality requirements and stated no one had provided a reason not to follow through with BRT. Councilmember Baines felt the ramifications for not following through with BRT had not been fully discussed in relation to the general plan, the development community, the public, or its impact upon economic growth. Councilmember Baines noted he was on the Air Board and said air quality science was complex and a 1% reduction was “huge.” Councilmember Baines explained that council needed to look at the numbers in perspective and noted the region was less than 1% away from compliance adding that the BRT and the general plan were linked and refusing the BRT would destroy the general plan which was needed for future economic development and growth. Councilmember Baines noted the reason the current council did not provide early input on the BRT was the discussion started years ago and previous councils decided the BRT was the most feasible option and he said Council should not reject the BRT without an alternative and a good enough reason to do so. Councilmember Baines said government prepared infrastructure and relied upon private investors to build around it and stated an MEIR and a functional / reliable general plan was how the City would remain business friendly. Councilmember Baines cautioned that not following through with the BRT would put the City at risk of taking several steps back during a fragile economic recovery and there has been no justification put forth to do so beyond philosophical disagreements over some of the transit pieces.

Councilmember Quintero reserved comment until after he had read the pro forma.

Mr. Rudd continued responding to questions and comments of President Xiong and Councilmember Caprioglio relating to: bifurcation of BRT from alternate “A”; the timeline for the general plan if council decided to eliminate the BRT; impacts to development for removing BRT and changing the general plan; input received from the Fresno County Transit Authority; how growth plans of Fresno COG members were interrelated; whose vision the BRT was; and councils involvement in BRT and putting the project together piecemeal.

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**RECESS – 2:49 P.M. – 3:07 P.M.**

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**(3:00 P.M.) CONTINUED HEARING TO CONSIDER PLAN AMENDMENT APPLICATION NO. A-07-012; REZONE APPLICATION NO. R-07-008; AND, ENVIRONMENTAL IMPACT REPORT NO. 10140 (SCH NO. 2007121033) FILED BY WESTLAKE DEVELOPMENT COMPANY, INC., AND PERTAINING TO 430 ACRES FOR THE “WESTLAKE” DEVELOPMENT PROJECT BOUNDED BY W. GETTYSBURG, W. SHIELDS, N. GARFIELD AND N. GRANTLAND AVENUES (PROPERTY LOCATED IN COUNCIL DISTRICT 1)**

President Xiong announced the time had arrived to consider the issue and opened the hearing.

City Attorney Sloan and President Xiong noted, Councilmember Olivier had a conflict with the item and had stepped out.

Development Services Supervising Planner Tackett reviewed the issue and recommended approval, all as contained in the staff report as submitted. Mr. Tackett noted the property was approximately 430 acres of land generally bounded by West Gettysburg, West Shields, West Garfield and North Grantland within the sphere of influence of the City of Fresno. Mr. Tackett explained the project was set to provide: approximately 2,600 single and multifamily residential units; 295,000 square feet of commercial buildings for community and neighborhood related uses; approximately 92 acres of open space including a 55 acre lake and trail network; community center with club house and related amenities; and an elementary school. Mr. Tackett discussed: the goals of the project; the changes found in Plan Amendment Application No. A-07-012; changes proposed by rezone application R-07-008; the recommended conditions of zoning; Vesting Tentative Tract Map No. 5915/UGM; and EIR No. 10140.

Granville Homes Vice President Roberts spoke on behalf of Granville. Mr. Roberts spoke of the history leading up to the Westlake project and felt the proposal implemented the goals and policies of the general plan better than the current land use pattern. Mr. Roberts explained the applications dealt with land use patterns, density, open spaces, roads, and laid the foundation for future work. Mr. Roberts stated the 2011 water supply assessment showed, at full build out, the Westlake plan would use slightly less water than full build out under the current general plan and significantly less water than agricultural use on the property. Mr. Roberts said the Fresno Irrigation District Waters supply would flow through the lake to an offsite basin with the potential to recharge between 519 and 949 acre feet of ground water per year.

Granville Homes President Assemi claimed the project would improve the area, remove blight, raise property values provide \$800,000 to general fund, create 500 jobs per year, help improve the local economy and create 25 acres of trails and parks with approximately 10,000 trees and 150,000 shrubs. Mr. Assemi noted Granville Homes met with neighborhood groups on four occasions and had resolved a majority of the concerns and enjoyed support from an overwhelming number of people in the area, though not everyone was on board.

Speaking in support were: Tim Mudge of Carpenters Local 701, 1361 Humoert Ave; Mike Berg, Superintendent of Central Unified School District, 4605 N. Polk Avenue; Nick Yovino, 1879 S. Homsy Avenue; Terry Cox, 7218 W. Olive; Rebekah Johanson Gonzalez, 612 Caspian; Karl Gosswiller, 3431 N. Wolters; Tiffanie Marshall, 5357 W. Lansing Way; Fernando Salinas, 6895 E. Saginaw; Crystal Cooper, 62 E. Fedora Avenue; Emily Bowlen, 1792 E. Turnberry; Michelle Brunn, 1442 E. Viaverde; Christina Kazachyan, 1391 Via Corsica; Matt McCauley, 1964 Polson Avenue, Clovis; Anthony Simone of Granville, 8246 W. Shields Avenue; Ashlee Perritte, 6824 W. Calimyrna Avenue; Scott Jobinger, 6118 N. Torrey Pines Avenue; Julie Jobinger, 6118 N. Torrey Pines Avenue; Claudia Cayetano of Granville, 2413 E. Michelle.

Speaking in opposition were: Venise C. Curry, M.D., 312 W. Valencia; Christine Barker, 3623 N. Ezie; Ashley Werner of the Leadership Counsel, 2115 Kern Street; Jon Endara, W. Rialto Avenue; Ginger Rainey, 7108 W. Rialto.

Upon call, no one else wished to be heard and President Xiong closed the public comments portion of the hearing.

Acting President Brandau had questions and comments concerning: water impacts; housing density; walk ability of the neighborhoods; and green and open space. In response, Mr. Roberts made the following comments: the 2011 water study was approved by a 7-0 vote and showed less use under the proposed project than the general plan adding the lake would be filled with non-potable water which would recharge groundwater and be used for watering green space; densities had been adjusted to compensate for the lake but maintained the 2025 general plan densities; there would be a 12 to 16 foot wide, landscaped, 2.8 mile long, multi use trail around the lake and a 1.5 mile long trail along Grantland Avenue which would connect to the project; and there would be more than 20 acres of parks, pocket parks and trails with 11,000 trees and 150,000 shrubs throughout which would take in greenhouse gases.

Councilmember Brand had questions and comments concerning: the number and type of housing units; water issues; traffic issues; assembling small parcels west of highway 99 for infill; paying for site improvements; demand for development; and Granville's track record. Mr. Roberts replied with the following comments: there would be 1,100 to 1,200 single family homes, a third multifamily condos, apartments, condos and condo PUD's; no water subsidies or accommodations have been provided by the city toward the project; traffic studies have been completed but would be refreshed every five years to stay ahead of the impacts and the project would pay over four million dollars into the Regional Transportation Mitigation Fee; the project could help stimulate other infill projects over multiple small parcels; and owners of the property would pay for streets, curbs, gutters and landscaping through "COD" and "HOA."

Councilmember Quintero had questions and comments concerning: when plans for the project began; the longevity of Granville care for its developments; and the well thought out plan for the project. Mr. Roberts stated Granville began accumulating property for the project in 2003.

President Xiong asked Ms. Rainey to present her suggestions to council. Ms. Rainey asked for a continuance until after Christmas so council could read the draft EIR and the initial EIR which she felt were bad. Ms. Rainey asked the council to put the project up for a vote by the people.

President Xiong had questions and comments concerning: growth and investment west of highway 99 in District one; diversity of home options; community outreach and engagement; public safety and stretched resources; whether this type of project fit into general plan alternative "A"; the challenges of growth and utilizing the right kind of growth; and alternatives to Westlake. Mr. Rudd responded by stating: the police department advised the Planning Department it could provide services in the new growth area; there was already a fire response / presence in the area using a home as a fire station; the developer had been working with the city on

a plan to build a fire station that would meet the departments needs at a cost significantly lower than past stations; the project densities were consistent with the current general plan and alternative "A" as part of the 55% new growth; and the alternative to Westlake would be the same number of units built 20 acres at a time.

Councilmember Brand clarified that the EIR had been in circulation since April 2013.

President Xiong announced the time had come to close the public hearing.

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RECESS – 5:30 P.M. – 5:52 P.M.

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**(5:00 P.M.) CONTINUED HEARING TO CONSIDER REZONE APPLICATION NO. R-12-001 AND RELATED ENVIRONMENTAL FINDINGS FILED BY JOSEPH GUAGLIARDO, ON BEHALF OF JIM AND ISABEL MEDINA, PERTAINING TO APPROXIMATELY 0.19 ACRES OF PROPERTY LOCATED ON THE SOUTHEAST CORNER OF N, VAN NESS BOULEVARD AND E. PRINCETON AVENUE (PROPERTY LOCATED IN DISTRICT 1)**

**# 1 CONSIDER AND ADOPT THE ENVIRONMENTAL FINDING OF ENVIRONMENTAL ASSESSMENT NO. R-12-001/C-12-047, A FINDING OF CONFORMITY WITH THE 2025 FRESNO GENERAL PLAN MEIR AND AIR QUALITY MITIGATED NEGATIVE DECLARATION, DATED JUNE 14, 2013**

**#2 BILL (FOR INTRODUCTION AND ADOPTION) — AMENDING THE OFFICIAL ZONE MAP TO MODIFY THE EXISTING CONDITIONS OF ZONING OF THE SUBJECT PROPERTY LISTED IN ORDINANCE BILL NO. 2006-26 FOR REZONE APPLICATION NO. R-04-048**

President Xiong announced the time had arrived to consider the issue and opened the hearing.

Development Services Division Planner Contreras reviewed the issue and recommended approval, all as contained in the staff report as submitted. Ms. Contreras discussed the following items: the history of the property; changes to the conditions of zoning; public input and letters of support and opposition; staff meetings with neighbors and the applicant; the site plan; and the approvals received from the Tower District Review Committee and the Planning Commission.

The applicant, Mr. Guagliardo, noted there were essentially three recommendations for zoning conditions: the request as initially filed by the applicant; the Planning Commission's recommendation and; staff's recommendation which evolved from the Planning Commission action. Mr. Guagliardo noted the Planning Commission had not yet reviewed staff's recommendation and stated his preference was for the zoning conditions approved by the Planning Commission. Mr. Guagliardo claimed past conditions were not clearly defined, were not understandable and were influenced by falsehoods including noise complaints. Mr. Guagliardo referenced a noise study purporting to show the shop operated within the noise ordinance limits and he referenced Mr. Medina's upkeep of the property and wide neighborhood support.

The business and property owner, Mr. Medina, stated he had nothing but headaches running the shop over the years and noted he had mitigated past issues adding that imposing the staff recommendations would impede his ability to make a living with potential losses of \$32,400 a year or \$324,000 over ten years. Mr. Medina discussed his revenues and how they would be negatively impacted by staff restrictions and claimed the extra hour was needed to stay competitive. Mr. Medina said there was no proof his business bothered neighbors and referenced a noise study and claimed past code enforcement actions were unfounded.

Mr. Boyajian brought petitions and stated he was Mr. Medina's attorney and client. The petitions were not received 24 hours in advance of the council meeting and were not made a part of the official record but are available in the City Clerk's Office. Mr. Boyajian discussed how developments such as Mr. Medina's business improved the condition of the neighborhood and claimed the shop blended with the community and merely continued the work historically performed at the location. Mr. Boyajian commented on: the charm of the business; environmental compliance; Mr. Medina's excellent reputation as a mechanic; and past studies indicating less than significant noise impact from the business. Mr. Boyajian reviewed the noise study commissioned by Mr. Medina and discussed: visual blight; property values; the good deeds by the auto shop staff in the neighborhood; the findings made by the Directors Classification; and the numbers of customers in support Mr. Medina.

Speaking in support were: Tiffanie Marshal of FFDA Properties, 626 E. Princeton; M. Johnson, 124 W. Cornell; Paul Wilson of Van Ness Automotive, 411 E. Cornell Avenue; James Brooks, 556 E. Lincoln, Reedley CA; Richard Moats, 723 E. Hampton; Mel Kilner, 520 E. Terrace; Janice Noga, 2715 N. Van Ness Boulevard; Steven Samano, 521 E. Princeton; Shashong Appling, 716 E. Princeton; Dan Appling, 716 E. Princeton; Elivio Olmos, 701 E. Brown Avenue; Mallory Medina, 5862 W. Millbrae Avenue; Robbie Cranch, 723 E. Hampton.

Speaking in opposition were: James Oakes, 4514 E. Pico; Lloyd Evans, 2811 N. Van Ness Boulevard; Leslie Davis, 2730 Van Ness Boulevard.

Upon call, no one else wished to be heard and President Xiong closed the public comments portion of the hearing.

Councilmember Caprioglio noted the gas station was an asset to the City of Fresno because of the historical building not because of the current business at the location. Councilmember Caprioglio agreed Mr. Medina was a great success story with a good work ethic but stated the issue was land use adding no one wanted to stop his business but the competing interests of the neighborhood needed to be balanced with the business. Councilmember Caprioglio said the current proposal was nothing like the historical business of pumping gas and oil changes that occurred in 1921 and compared the history of the site to asking for an inch but taking a mile noting that rebuilding engines was part of the expansion. Councilmember Caprioglio pointed out that Mr. Medina was not happy and wanted more expansion than recommended by staff and questioned if Mr. Medina had taken a mile yet. Councilmember Caprioglio suggested the business was thriving enough for a satellite garage, in a properly zoned area, which would end the need for shuffling cars and the constant need to address City Hall. Councilmember Caprioglio noted the noise study commissioned by Mr. Medina was completed Saturday afternoon, when the business would have been closed adding he would not support the staff recommendation and felt the city had bent over backwards for the business and it was time to expand elsewhere.

Councilmember Baines concurred with Councilmember Caprioglio that the issue was land use and not about Mr. Medina's skills as a mechanic. Councilmember Baines said even though neighbors moved in knowing there was a garage at the location, Mr. Medina had taken over the business knowing he didn't have the permits to do the kind of work he wanted to do on the site. Councilmember Baines explained that Mr. Medina had asked for more and more from the City and wondered when it would stop and questioned whether the business had outgrown the location. Councilmember Baines stated it was council's responsibility to balance competing interests and observed that most of the people who testified on behalf of Mr. Medina did not live next door to the business. Councilmember Baines asked why the restriction on tow truck deliveries was removed from the conditions and Ms. Contreras replied the site was not gated so Mr. Medina would not have the ability to enforce such a restriction. Councilmember Baines explained that, in light of the past expansions which have been given and the number of complaints he has received, he was not likely to support further expansion.

Acting President Brandau questioned whether the staff recommendation was an expansion or a continuation of the status quo. Mr. Rudd stated the recommendation included expansion by the types of services to be allowed and was an attempt at compromise. Mr. Rudd did not believe the restrictions would prevent Mr. Medina from doing the types of repairs he wanted because there were alternatives to pneumatic tools for the weekends and the hours allowed for plenty of time to work. Mr. Rudd said the compromise allowed the business to operate as a full service garage with some considerations for the neighbors. Acting President Brandau asked Mr. Medina what part of the recommendation he did not like and why. Mr. Medina said he was in business to, "make the most of it," and could work within the hours recommended but did not like being limited to minor repairs on Saturdays. Acting President Brandau asked what was wrong with using electric power tools to minimize noise for neighbors and avoiding the heaviest work that day. Mr. Medina explained he had no problem with electric tools but claimed the shop had been doing heavy mechanical work since 1926 and it was nothing new. Mr. Medina also claimed the noise study was published with the wrong date and was actually performed on Friday, not Saturday. Acting President Brandau explained the City was attempting to compromise between the interests of the business and the neighbors and noted the recommendation allowed minor repairs. Mr. Medina told council he would rather do major repairs but if he had the hours he was asking for, he would be satisfied with that. Mr. Medina stated he was tired of people telling him to move or open a satellite garage because people did not realize it would cost him money to do those things. Acting President Brandau clarified the proposed Saturday times and restrictions with Mr. Rudd. Mr. Medina stated the extra hours on Saturdays would help his business stay competitive. Acting President Brandau concluded by noting the staff recommendation was an expansion of the business and stated it was a tough decision for Council to make.

Councilmember Brand said it was obvious Mr. Medina did an outstanding job with his business and in the community but the issue was land use and the City needed to be cautious about setting precedence. Councilmember Brand said, as a businessman, he felt a larger property would be ideal for Mr. Medina because he has a loyal following and his business could expand whereas the current property was stifling in terms of zoning and his struggle with neighbors. Councilmember Brand explained he could support the staff recommendation but had issues with any further expansion.

President Xiong stated the issue had nothing to do with any particular race or persuasion. President Xiong explained his direction was to find compromise and he thought the issue was resolved in 2007 noting a Directors Classification was signed by the former City Manager four years later without appreciation for the level of sensitivity of the issue. President Xiong said the issue was heated on both sides and he was looking for a way to bring the sides together knowing not everyone would be happy. President Xiong commented on the status quo and recalled the hard work and effort by Mr. Medina stating his decision would be unbiased towards either side and made at arm's length. President Xiong noted the issue set precedence and he questioned whether these issues would come back again before making a motion to approve staff's recommendation. The motion was seconded by Acting President Brandau.

Mr. Rudd addressed Mr. Medina before the vote, asking whether he could support the staff recommendation. Mr. Medina asked for the hours of operation to be clarified. Mr. Rudd read from the staff report: Monday through Friday the business would be open from 7:30 am to 6:00pm and vehicles would only be repaired between the hours of 8:00am to 5:00pm; on Saturday, the business would be open from 7:30am until 1:00pm and vehicles would only be repaired between 8:00am and 12:00pm. Mr. Medina replied that he could support the staff recommendation.

Councilmember Brand asked for the motion to include language reflecting council's intention that the subject property would not ask for additional changes in the future should the motion be approved. President Xiong agreed to include the language in his motion and Acting President Brandau agreed to second the motion.

President Xiong asked the City Attorney to notify Council within 30 days whenever a Director's Classification was made on any property.

On motion of President Xiong, seconded by Acting President Brandau, duly carried, RESOLVED, Environmental Assessment No. R-12-001/C-12-047, a Finding of Conformity with the 2025 Fresno General Plan MEIR and Air Quality Mitigated Negative Declaration, dated June 14, 2013, hereby adopted and Bill No. B-38 hereby introduced and Ordinance No. 2013-38 hereby adopted with Councils intent that the subject property would not seek additional changes in the future, by the following vote:

Ayes : Brand, Brandau, Olivier, Xiong  
Noes : Baines, Caprioglio, Quintero  
Absent : None

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#### ADJOURNMENT

There being no further business to bring before the City Council, the hour of 8:20 p.m. having arrived and hearing no objection, President Xiong declared the meeting adjourned.

*Approved* on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Blong Xiong, Council President

ATTEST: \_\_\_\_\_  
Todd Stermer, Assistant City Clerk